



**FIFTH OPINION ON  
THE UNITED KINGDOM**

**ADVISORY COMMITTEE  
ON THE  
FRAMEWORK  
CONVENTION FOR THE  
PROTECTION OF  
NATIONAL MINORITIES**

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## SUMMARY OF THE FINDINGS

1. The rights of national minorities in the United Kingdom continue to be promoted by a flourishing wealth of civil society organisations and active members of communities. The pandemic, rising costs of living and the political climate seriously impacted societal cohesion and the human rights situation over the monitoring cycle. The instrumentalisation of human rights for party-political ends limits the space for those seeking to defend minority rights.

2. Overall, whilst the UK is a multicultural country and it includes a wide array of minorities under the Framework Convention, there is a troublingly persistent level of antigypsyism which pervades society at all levels, and strong increases in hate crime targeting other minorities – notably the Jewish and Muslim communities. Furthermore, the policy direction of the authorities fails to challenge existing prejudices, and even in some cases worsens the situation through indirect discrimination. This is particularly so for the media, whose reporting on Gypsies, Roma and Travellers in particular has entrenched prejudices. A comprehensive strategy for England and for Northern Ireland to tackle antigypsyism – including anti-nomadism – is necessary to fundamentally combat the widely-held prejudices against this minority.

### Legislative developments

3. The UK Government's legislative changes over the monitoring cycle, and proposals still on the table, raise many concerns for persons belonging to national minorities. In Great Britain, the review of the Human Rights Act proposed by the Government and the Nationality and Borders Act and Police, Crime, Sentencing and Courts Act threatens to weaken the protection of human rights and minority rights, for instance, criminalising trespass, broadening police powers, and allowing for the removal of citizenship without prior notice.

### Gypsies, Roma and Travellers

4. The Advisory Committee has serious concerns about the situation facing Gypsies, Roma and Travellers in the UK. The definition of 'Gypsy' for planning purposes excludes those who have permanently ceased traveling. This means that ethnic Gypsy and Travellers may be denied their status as a 'gypsy' [sic]. There is also a systematic shortage of sites resulting either from local authority unwillingness, opposition from local residents, and this new definition reducing the number of sites required in needs assessments. Moreover, the authorities have criminalised trespass with a vehicle in the Police, Crime, Sentencing and Courts Act. This Act appears to the minority as a criminalisation of the option of last resort of Gypsies and Travellers in England, and it is difficult for the minority itself to

discern the difference between that and forced assimilation. The fear this Act has sparked among the minority is profound.

5. Access to education for Gypsies, Roma and Travellers across the UK remains deeply concerning for the Advisory Committee - not only in terms of outcomes, but school experience. Findings of various studies and first-hand experiences heard by the Advisory Committee relating to the racial bullying of this group are particularly shocking, and require urgent action from the authorities at all levels.

### Socioeconomic issues affecting national minorities

6. The Advisory Committee is seriously concerned about effective access to education and racist bullying in particular affecting Gypsy, Roma and Traveller communities. This is one, significant driver of lower rates of attendance in schools, attainment and outcomes, as well as of higher rates of temporary and permanent exclusions. An itinerant or semi-itinerant way of life also impacts upon access to education – despite some efforts by authorities. Access to healthcare for Gypsies, Roma and Travellers is also concerning.

7. Access to healthcare for other minorities is concerning – 'hostile environment' policies having created distrust in the National Health Service (NHS). In Northern Ireland, a health study from 2010 has still not been acted upon, and elsewhere, data is lacking which prevents a coordinated response to this issue. Employment of ethnic minorities who are disproportionately on unstable contracts (which were severely impacted by Covid-19) is also of concern.

8. In Cornwall, Wales and Scotland, the pricing-out of locals from tourist hotspots through the purchase of second or holiday homes is concerning and threatens the vitality of language communities there. There is also a need to ensure economic support for those regions, particularly more remote areas, where minorities live traditionally in substantial numbers.

### Northern Ireland

9. The persistent lack, over the monitoring cycle, of a functioning Executive in Northern Ireland is undoubtedly hindering the implementation of the Framework Convention and the situation is alarming for the Advisory Committee. The three-year absence of an Executive from 2017-2020 and again from February 2022 has maintained the focus on post-conflict issues which are entrenched along political divides – which overshadows the issues of any other minorities and paralyzes issues relating to language and identity.

10. Education remains split along religious lines, and there is evidence that children growing up in these contexts fear the prospect of integration – such is the weight of history and conflict on society. The impact of the UK's withdrawal from the European Union has been felt in a particular way in Northern Ireland, due to its geography and the Protocol to the Withdrawal Agreement, and there are fears that the negotiations on this – which are still ongoing – have reignited tensions of the past and have led to the collapse of the Executive again. 'Legacy' proposals to deal with the effects of the conflict in Northern Ireland brought by the UK Government purport to foster good relations but may threaten to destabilise the peace through the potential to grant conditional immunity from prosecution, and not pursuing any further prosecutions. The difficult situation calls for greater efforts to pursue integrated education through boosting the number of places available in integrated schools.

11. It is welcome that proposals relating to the Irish language and Ulster Scots have now been passed by the UK Parliament – however these proposals further contribute to the sectarianism surrounding cultural questions: the naming of a commissioner for Ulster Scots as for the Ulster Scots and the Ulster British Tradition unnecessarily conflates this minority identity with a distinct political one, for example.

12. The situation for people from Black, Asian and minority ethnic backgrounds and Irish Travellers is particularly alarming: Northern Ireland has the highest rates of hate crime in the UK per capita, and Irish Travellers are absent from any form of representation or participation –

even consultation by Government. The lack of equality data in Northern Ireland prevents concrete solutions being elaborated.

### Language rights

13. There is a good level of language protection in Wales and Scotland – although more could be done in Northern Ireland, and in Scotland greater efforts are needed to address the needs of the 'vernacular language communities', and funding needs to be brought up to a proper level. Cornish has seen some improvements over the period since it was recognised as a national minority – but funding is now diminished and the Cornish language sector, particularly in terms of education, is turning back to being voluntary. This does not give good prospects for revitalisation. Resolute support for Cornish, including via participation in the decision-making of national authorities, is necessary. In England and Scotland, there is the sense that these issues are of low priority, and do not command much attention from central or devolved governments.

14. Further incentives for teachers of minority languages – especially Irish and Scottish Gaelic – are needed, and support for the Cornish language education sector is desperately needed to ensure its viability.

15. A lack of permanent consultation fora with linguistic minorities prevents them from being able to raise issues of concern on a regular basis with authorities, and allowing the authorities to better plan their language policy – as well as other relevant policy areas.

## RECOMMENDATIONS

16. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by the United Kingdom.

17. The authorities are invited to take account of the detailed observations and recommendations contained in the present opinion of the Advisory Committee. In particular, they should take the following measures to improve further the implementation of the Framework Convention:

### Recommendations for immediate action

18. The Advisory Committee urges the authorities to take priority measures to address the accommodation needs of persons belonging to Gypsy, Roma and Traveller minorities, including through reverting to the pre-2015 definition of “Gypsy” for planning purposes in England, obliging local authorities to provide the sites they have identified through needs assessments, and continuing to work to increase the number of sites and pitches, both transit and permanent. They should also reconsider the implications of the criminalisation of unauthorised sites and the seizure of property in light of the risk of forced assimilation this poses to the minorities.

19. The Advisory Committee urges the authorities to develop and adopt in a timely manner a comprehensive, cross-sectoral national strategy for England to combat antigypsyism and anti-nomadism. This should also tackle inequalities faced, respectively, by Gypsies, Roma and Travellers, in close consultation with them and to have due regard to the needs of women, youth and the elderly from these communities.

20. The Advisory Committee urges the UK authorities to take swift and effective measures to avoid any discriminatory effect of the Nationality and Borders Act and the Police, Crime, Sentencing and Courts Act for persons belonging to national minorities.

21. The Advisory Committee urges the authorities to increase the share of pupils and students attending integrated schools, and seek to actively motivate parents and provide incentives for pupils and students studying in such schools, with a view to creating a fully integrated education system in Northern Ireland.

22. The Advisory Committee urges the authorities to intensify their efforts to develop and increase the offer and support to Irish-medium education in Northern Ireland, including for

children with special educational needs, and Gaelic-medium education in areas traditionally inhabited by persons belonging to the Gaelic-speaking minority in Scotland. The Advisory Committee urges the authorities to include Cornish in the curriculum and adequately fund Cornish organisations providing minority language education, teacher training or developing quality educational materials in Cornish.

### Further recommendations<sup>1</sup>

23. The Advisory Committee calls on the authorities to effectively guarantee to persons belonging to national minorities the right to equality before the law by adopting comprehensive equality legislation for Northern Ireland and by harmonising protection across the UK. The Advisory Committee calls on the authorities to review the Northern Ireland Race Equality Strategy 2015-2025 in close consultation with minority representatives to ensure it is adequately funded, outcome focused and tailored to the needs of the minorities. They should also draw-up a strategy to combat antigypsyism for Northern Ireland. The Advisory Committee calls on the Northern Ireland authorities to complete the process allowing for the collection of disaggregated data on the ground of “race”, including for Roma and Irish Travellers, in order to design and implement targeted policies promoting their full and effective equality.

24. The Advisory Committee calls on the authorities, both devolved and for the UK, to provide baseline, as well as specific multi-annual funding, through a dedicated funding mechanism for national minorities. Within such a mechanism, representatives of the respective communities should be able to actively take part in the decision-making process, to support their cultures and languages and identities. The Advisory Committee calls on the UK authorities to ensure sufficient, regular, earmarked baseline funding for the support and the promotion of Cornish language and culture.

25. The Advisory Committee calls on the authorities to actively promote a climate of mutual respect and intercultural dialogue, condemn instances of hate speech made in public and political discourse. In particular they should launch targeted campaigns addressing society as a whole combating antigypsyism, including anti-nomadism, as well as anti-Muslim hatred and antisemitism. The Advisory Committee calls on the authorities to actively engage with media outlets and social media platforms to take steps to combat negative stereotyping and to ensure a

<sup>1</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

balanced portrayal of persons belonging to national minorities.

26. The Advisory Committee calls on the authorities to review, in meaningful consultation with civil society, proposals made in the Northern Ireland Troubles (Legacy and Reconciliation) Bill with a view to substantively promoting intercultural dialogue and reconciliation. The authorities should take steps to promote intercultural dialogue in Northern Ireland, effectively counter paramilitarism and actively work to foster integration of society as a whole.

27. The Advisory Committee calls on the authorities to ensure that the future BBC Charter and future Framework Agreement include provision for the support and promotion of minority language media, especially Cornish and Scots. Further efforts should be made to broadcast minority language programmes on mainstream television, as well as programmes about Black, Asian, ethnic minorities, including Gypsy, Roma and Traveller cultures, traditions and history.

28. The Advisory Committee calls on the authorities to ensure the implementation of the Identity and Language (Northern Ireland) Bill, and to work with representatives of the Irish-speaking community to further develop Irish language policy in Northern Ireland. They should also consider revising the Bill in consultation with the Ulster Scots minority representatives to address the conflation of Ulster Scots and Ulster British identities.

29. The Advisory Committee calls on the authorities to ensure the representation of minorities across curricula in the UK, as well as in teaching and learning materials and teacher training, with special attention also paid to the culture, history, traditions and identities of Gypsies, Roma and Travellers, in co-operation with persons belonging to national minorities.

30. The Advisory Committee calls on the authorities to take priority measures to tackle racist bullying in schools, in particular against Gypsies, Roma and Travellers, including through making recording instances of racist bullying mandatory in schools in Great Britain, adding ethnic identifiers on such recording in Northern Ireland, strengthening mechanisms and remedies in cases of racist bullying, and collecting data disaggregated by gender,

geographical location and ethnicity on absenteeism. More targeted measures are needed to improve outcomes for persons belonging to minorities and positive measures are required to facilitate the itinerant way of life whilst still ensuring access to education.

31. The Advisory Committee calls on the authorities to devolve the appropriate powers to Cornwall Council to ensure effective implementation of the Framework Convention at local level, and to establish a permanent consultation forum with Cornwall Council on this and other issues of importance to persons belonging to the Cornish national minority. The Advisory Committee calls on the authorities to work with Cornwall Council to address the housing crisis affecting persons belonging to the Cornish national minority, and to collaborate with devolved administrations to tackle this problem in areas of concern.

32. The Advisory Committee calls on the Scottish authorities to promote further, through a dedicated long-term plan, the socio-economic development of islands, remote or rural areas inhabited by Gaelic-speaking communities, with the direct participation of minority representatives from those communities.

33. The Advisory Committee calls on the authorities to ensure effective access to healthcare and a healthy standard of living for persons belonging to national minorities, in particular Gypsies, Roma and Travellers. Further data gathering in partnership with them should be carried out, with a view to designing long term gender-sensitive measures to address health inequalities. The Advisory Committee calls on the authorities in Northern Ireland to design adequate measures in response to the All-Ireland Traveller Health Survey.

#### Follow-up to these recommendations

34. The Advisory Committee encourages the authorities to organise a follow-up event after the publication of this fifth cycle opinion. It considers that a follow-up dialogue to review the observations and recommendations made in this opinion would be beneficial. Furthermore, the Advisory Committee stands ready to support the authorities in identifying the most efficient ways of implementing the recommendations contained in the present opinion.

## MONITORING PROCEDURE

### Follow-up activities related to the recommendations of the fourth opinion of the Advisory Committee

35. No follow up meeting on the recommendations of the fourth opinion of the Advisory Committee took place.

### Preparation of the state report for the fifth cycle

36. The state report was received on 4 November 2021, over two and a half years past the due date of 1 May 2019. The Advisory Committee underlines the importance of respecting reporting obligations by states parties, and recalls that the due date of the sixth state report is 1 July 2023. It does not appear that organisations representing and promoting the rights of persons belonging to national minorities were consulted in its preparation. Some gender-related aspects of minority rights were addressed in the report.<sup>2</sup> Supplementary information was received from the Scottish Government on 16 May 2022.

### Country visit and adoption of the fifth opinion

37. This fifth-cycle opinion on the implementation of the Framework Convention for the Protection of National Minorities (hereinafter “the Framework Convention”) by the United Kingdom was adopted in accordance with Article 26(1) of the Framework Convention and Rule 25 of Resolution (2019)49 of the Committee of Ministers. The findings are based on information contained in the fifth state report, other written sources, as well as information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Belfast/Béal Feirste/Bilfawst, Stornoway/Steòrnabhagh, Cross/Cros (Isle of Lewis/Eilean Leòdhais), Matlock, Derby and London from 4 to 8 April 2022, which was supplemented by online meetings with civil society, local authorities, devolved administrations and the United Kingdom authorities on 10, 23 and 24 May. The Advisory Committee expresses its gratitude to the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland, the Equality and Human Rights Commission (GB) for their assistance, as well as the numerous minority NGOs and civil society organisations who contributed to the visit. It also thanks the UK authorities for their co-operation in organising these online meetings. The draft opinion, as approved by the Advisory Committee on 6 October 2022 was transmitted to the United Kingdom authorities on 6 October 2022 for observations, according to Rule 37 of Resolution (2019)49. The Advisory Committee welcomes the

observations received from the UK authorities on 5 December 2022.

\* \* \*

38. In the following part of the opinion, a number of articles of the Framework Convention are not addressed. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of these articles does not give rise to any specific observations. This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Rather, the Advisory Committee considers that the obligations of the Framework Convention require a sustained effort by the authorities. Furthermore, a certain state of affairs which may be considered acceptable at this stage may not necessarily be so in further cycles of monitoring. Finally, it may be that issues which appear at this stage to be of relatively minor concern prove over time to have been underestimated.

<sup>2</sup> See Fifth [state report submitted by the United Kingdom](#), 7 November 2021, pp.14, 23-24.

## ARTICLE-BY-ARTICLE FINDINGS

**Scope of application and free self-identification (Article 3)**

39. The UK maintains an open scope of application to the Framework Convention, affirming in its state report that the Government “does not consider it necessary for minority groups to be named and recognised under the Framework Convention to benefit from support.”<sup>3</sup> The UK thus maintains a wide scope of application,<sup>4</sup> with the Cornish specifically recognised, and now Ulster Scots, which the authorities recognised<sup>5</sup> on 25 May 2022, based on a commitment in the ‘New Decade, New Approach’ (NDNA).<sup>6</sup> This agreement also included a number of other commitments to Ulster Scots, including the establishment of an ‘Ulster Scots/Ulster British’ commissioner. These commitments were introduced as amendments, alongside others relating to Irish, to the Northern Ireland Act (1998), but were passed by the UK Parliament in October 2022 (see Article 10).<sup>7</sup>

40. Representatives of the Ulster Scots minority have broadly welcomed their recognition under the Framework Convention, seeing it as a development and recognition of their identity beyond the purely linguistic sphere – which better reflects their concerns. They have however expressed regret at having to wait for this recognition, both since the NDNA commitments and since the 1990s when they were requesting this recognition initially.

41. The Advisory Committee encourages the UK authorities to continue their broad and flexible approach to the scope of application of the Framework Convention.

**Free self-identification and population census (Article 3)**

42. The population census in England and Wales took place in March 2021, as it did in Northern Ireland, and in Scotland up to May 2022.

Results for Scotland are expected to be published in 2023, whereas for the rest of the UK results will be published in autumn/winter 2022. The individual census forms for the three censuses asked open questions on national identity, ethnicity and language.<sup>8</sup> There were in addition, specific questions as to comprehension and use of minority languages in Northern Ireland, Scotland and Wales. In Scotland and England and Wales, the ethnicity questions included “high level ethnic groups”, under which different ethnicities were placed – for example, “English, Welsh, Scottish, Northern Irish or British”<sup>9</sup> was included in England explicitly as a tick-box under the “high level ethnic group”, “White”, and such options could also be written-in under the other “high level ethnic groups”, i.e. in England “Mixed or multiple ethnic groups”, “Black or Black British”, “Asian or Asian British” or “Other ethnic group”. There was no specific tick-box for Cornish ethnicity or language as the Office for National Statistics (ONS) has judged this demand to be too localised to be included in the national census; those wishing to self-identify as such had to write it in. The ONS has conducted awareness-raising in Cornwall on this possibility.<sup>10</sup> The question on national identity (British, English, Welsh, Scottish, Northern Irish, other) provided the possibility for multiple affiliations. Data from the census for England and Wales shows that the number of persons identifying as Cornish has increased overall from 66 000 in 2011 to 100 000 in 2021.<sup>11</sup> It also shows the number of Gypsies and Irish Travellers having risen by around 10 000 since 2011 to 67 768 (remaining at 0.1% of the population), while 100 981 people self-identified as Roma (0.2% of the population).<sup>12</sup> For other ethnic groups, the percentage of Asian, Asian British or Asian Welsh accounted for 9.3% of the population, while Black, Black British, Black Welsh, Caribbean or African make up 2.5% of the population.

<sup>3</sup> Ibid., p.6.

<sup>4</sup> Based, as previously, on the definition of racial group from the Equality Act 2010, and as interpreted by courts (see Advisory Committee’s Fourth Opinion on the United Kingdom, adopted on 25 May 2016, para.14).

<sup>5</sup> Recognition of Ulster Scots as a national minority and funding for An Ciste Infeistíochta Gaeilge, the Irish Language Investment Fund, 25 May 2022, Statement UIN HCWS56, made by Brandon Lewis MP, Secretary of State for Northern Ireland: <https://questions-statements.parliament.uk/written-statements/detail/2022-05-25/hcws56>.

<sup>6</sup> New Decade, New Approach, Annex A ‘UK Government Commitments’, para.24.

<sup>7</sup> Northern Ireland Act (1998): <https://bills.parliament.uk/bills/3168>.

<sup>8</sup> Scotland’s census form: <https://www.scotlandscensus.gov.uk/documents/scotland-s-census-2022-paper-questionnaires>; England and Wales’s form: <https://www.ons.gov.uk/census/censustransformationprogramme/questiondevelopment/census2021paperquestionnaires>. NI: <https://www.nisra.gov.uk/publications/2021-census-questionnaires>.

<sup>9</sup> The equivalent response options within the White high-level ethnic group were: in Scotland, ‘Other British’ (with a separate response option for ‘Scottish’); in England, ‘English, Welsh,

Scottish, Northern Irish or British’; in Wales, ‘Welsh, English, Scottish, Northern Irish or British’.

<sup>10</sup> See ONS, Ethnic group Stakeholder Follow-up Survey – Summary of responses, at <https://www.ons.gov.uk/census/censustransformationprogramme/questiondevelopment/ethnicgroupnationalidentityreligionandlanguage/2021censusetnicgroupstakeholderfollowupsurveysummaryofresponses#annex-b-list-of-requests-for-new-ethnic-group-categories>; see also: Ethnic group tick box prioritisation report: [Ethnic group tick-box prioritisation report for Census 2021 in England and Wales – Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/census/censustransformationprogramme/questiondevelopment/ethnicgroupnationalidentityreligionandlanguage/2021censusetnicgroupstakeholderfollowupsurveysummaryofresponses#annex-b-list-of-requests-for-new-ethnic-group-categories).

<sup>11</sup> This includes 14% of the population of Cornwall, or 80,000 people (up from 9.9%, or 53 000, in 2011). <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/bulletins/nationalidentityenglandandwales/census2021#english-identity-in-england-welsh-identity-in-wales-and-cornish-identity-in-cornwall>.

<sup>12</sup> ONS, Statistics Bulletin Census 2021, Ethnicity, 29 November 2022: <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/bulletins/ethnicgroupenglandandwales/census2021#ethnic-groups-in-england-and-wales>.

43. The ONS has informed the Advisory Committee that bespoke additional analysis of the 2021 census in England and Wales will be carried out in relation to Gypsies and Irish Travellers, Roma, the Jewish, Sikh, Somali and Cornish populations.<sup>13</sup> The ONS reports that it ran extensive research and testing to support the decision making in finding which high-level category “Roma” was best placed within.<sup>14</sup>

44. Concerns have been raised about the inclusion of “Gypsy or Irish Traveller” and “Roma” within the “White” “high level ethnic group”. Gypsy, Roma and Traveller<sup>15</sup> organisations reported that this meant people chose to not self-identify with this ethnicity in the census, as they do not see themselves as “White”.

45. Cornish representatives expressed their disappointment at the absence of a Cornish tick-box, as they found this to be a visible way in which their previous recognition as a national minority – which the UK Government stated at the time was to be in parity with other minorities in the UK – was not being implemented in practice. They further stated that demand was also localised in other areas where minorities live, and that numbers of Cornish people may appear in statistics to remain static as long as they did not have this possibility to self-identify in official data collection exercises.<sup>16</sup>

46. The Advisory Committee reiterates that “the right to free self-identification applies in each data collection exercise separately. This means that persons belonging to national minorities must not be required always to self-identify in the same manner. Lists of possible responses to identity-related questions should be open not closed, and the opportunity to express multiple affiliations should be provided explicitly.”<sup>17</sup> It also reiterates Article 3 of the Framework Convention which states that “[e]very person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such”.

47. Whilst welcoming the development of separate tick-boxes for Roma and Gypsies and

Travellers and the open-ended choices for identifying as ethnicities or using languages not in the lists, the Advisory Committee has concerns about the categorisation of ethnicities into broader “high level ethnic groups” also but not only in terms of its impact on free self-identification, as these may conflate notions of ethnicity and national identity by explicitly linking English, Welsh, Scottish and Northern Irish ethnicities (which are also provided as national identities under this question) with “Whiteness”, albeit the implicit option of a write-in for other “high level ethnic groups” was possible. This is especially important for persons belonging to Gypsy, Roma and Traveller communities, for whom confidence in data collection methods is already lacking. However, the Advisory Committee notes positively the number of persons identifying as Roma, and considers that this will form a good basis for more targeted measures to improve the situation of this community and persons belonging to them. It is also concerned that the ethnicity question is mandatory and that the possibility to avoid self-identifying within an ethnic group is not clear, as persons would have to tick the ‘Other’ box, and write in an identification.

48. The Advisory Committee also regrets the absence of a Cornish tick-box in the census, although acknowledges that the authorities worked closely to raise awareness of the possibility to enter manually the Cornish affiliation and to analyse the data gathered on the Cornish. In this context the Advisory Committee notes with satisfaction that the relative and absolute number of persons identifying as Cornish has increased. The ONS should work with the local authorities and organisations to collect accurate data on the number of speakers of Cornish through other methods, besides the census.

49. The Advisory Committee strongly encourages the authorities to ensure that the right to free self-identification as enshrined in Article 3 of the Framework Convention is respected, to ensure persons belonging to

<sup>13</sup> See: ONS, Ethnic group, nationality, language and religion analysis plans, <https://www.ons.gov.uk/census/aboutcensus/censusproducts/analysis/ethnicgroupnationalitylanguageandreligionanalysisplans>. See also [White Paper](#). Office for National Statistics, [Census 2021 outputs](#).

<sup>14</sup> Details of the research conducted can be found in the Summary of Testing for 2021: <https://www.ons.gov.uk/census/censustransformationprogramme/questiondevelopment/summaryoftestingforcensus2021>.

<sup>15</sup> The terms ‘Gypsies’ and ‘Travellers’ refer to communities with a centuries-long connection to the UK and British Isles – for instance Romany/Romani Gypsies and Irish and Scottish Travellers – who may be or have been itinerant, though many now have a fixed residence. ‘Roma’ refers generally to persons of Roma origin who have migrated to the UK. The acronym GRT (Gypsy, Roma and Traveller) is commonly used to refer to the minority. These groups have however informed the Advisory Committee of the different issues facing these groups, and whilst in some contexts referring to the group as a whole is necessary – other contexts require greater specificity. In Northern Ireland, the term ‘Travellers’ or ‘Irish Travellers’ is generally used. In Scotland, ‘Gypsy/Travellers’ is the usual term. In England,

‘Travellers’ is commonly used, along with ‘Irish Travellers’. In this opinion the Committee will therefore differentiate where necessary between the groups for the purposes of clarity, and will hence differ from its usual practice of using exclusively the term “Roma”, reflecting past practice on opinions on the UK (see Advisory Committee’s Fourth Opinion on the United Kingdom, para.16, fn.11). The term ‘Gypsy’ is used by the communities themselves as self-identification and does not have the derogatory meaning it carries elsewhere in Europe when used in this sense. It may however be used as an insult by the majority population.

<sup>16</sup> Cornwall Council, [Contribution](#) to the Fifth Cycle UK State Report, 2019, paras.9-14.

<sup>17</sup> ACFC Thematic Commentary No. 4, The Framework Convention: a key tool to managing diversity through minority rights. The scope of application of the Framework Convention for the Protection of National Minorities, adopted on 27 May 2016, para.16.

national minorities are aware of the full range of possibilities for writing-in their response, and to ensure the meaningful participation of persons belonging to national minorities in the planning of future data collection exercises, as well as in the analysis, presentation and dissemination of results of the 2021/2022 censuses.

#### Anti-discrimination institutional framework (Article 4)

50. The Equality and Human Rights Commission, established by the Equality Act, has a mandate as an equality body and human rights institution in England, Scotland and Wales. The Scottish Human Rights Commission takes responsibility for human rights protection in Scotland.<sup>18</sup> In Northern Ireland there are, pursuant to the Northern Ireland Act 1998 and hence the Belfast (Good Friday) Agreement, the Equality Commission for Northern Ireland (ECNI) and the Northern Ireland Human Rights Commission (NIHRC). The Protocol on Ireland and Northern Ireland (the Protocol), signed with the EU in 2020, commits the UK Government to ensure rights are upheld post-Brexit. Both Commissions have been given additional powers and responsibilities as “dedicated mechanisms”, such as providing advice to Government, monitoring, enforcing and reporting, on the implementation of this commitment.<sup>19</sup> The NIHRC is currently subject to an independent review, the aim of which is to ensure the NIHRC can continue to appropriately fulfil its statutory duties and exercise its power. The report is expected by the end of 2022.

51. After three years of budget cuts, the NIHRC which is funded by the UK Government, has been notified of a five percent decrease to its 2022-23 budget. The NIHRC reports that, given its resulting shortage of staff, it will be difficult for it to fulfil its core mandate, including its investigatory and education functions, as well as new tasks under the Protocol.<sup>20</sup> Although some additional funding for the “dedicated mechanisms” has been made available by the authorities,<sup>21</sup> concerns remain about the effect of those budget cuts on NIHRC’s ability to fulfil its mandate, which caused delays in the reaccreditation process of this A status (according to the Paris Principles) national human rights institution.<sup>22</sup> Other national human rights institutions (NHRIs) in the UK have also faced budget cuts.

52. The Advisory Committee emphasises that the Paris Principles require that NHRIs receive

adequate funding to cover for staff and premises expenses and to allow them to fulfil their mandates; NHRIs are a cornerstone of national human rights protection systems, as well as a bridge between international human rights norms, civil society and governments, and adequate financial and human resources should be made available to them in a sufficient and stable manner. The Advisory Committee is in this respect – and given their particular role concerning national minorities in Northern Ireland – especially concerned at the budget cuts made to the institutions founded to ensure peace in the Good Friday Agreement. It reminds the UK authorities of its international obligations and considers that authorities should on the contrary provide sustainable financial support in order for NHRIs to be able to effectively fulfil their core mandates.

53. The Advisory Committee asks the authorities to provide the adequate and secure funding needed to enable the Northern Ireland Human Rights Commission and other National Human Rights Institutions to effectively carry out their mandates.

#### Legislative developments in achieving full and effective equality (Article 4)

54. The Human Rights Act (HRA) 1998 incorporates the European Convention on Human Rights (ECHR) into domestic law and makes the rights enshrined in it directly enforceable. In December 2020, an Independent Human Rights Act Review (IHRAR) was established with the aim to review the HRA’s operation and consider if changes were needed. Despite its conclusion that there was no convincing case to overhaul the HRA, and public consultations which showed opposition to replacing it, the Government announced its intention to legislate to replace the HRA with a new “Bill of Rights”. The authorities state that the aim of this is to strengthen protection of freedom of expression, “increase democratic oversight” to ECtHR judgements and protect the right to trial by jury.<sup>23</sup>

55. The Equality Act continues to be the main legislation prohibiting direct and indirect discrimination, harassment and victimisation based on protected characteristics in Great Britain.<sup>24</sup> “Race” is among the nine protected characteristics and includes “colour, nationality,

<sup>18</sup> UK Parliament, [The Equality and Human Rights Commission](#).

<sup>19</sup> NIHRC, Human Rights after Brexit, at: <https://nihrc.org/brexit>.

<sup>20</sup> NIHRC, [Shadow Report](#), March 2022

<sup>21</sup> Additional information from the authorities received on 24/06/2022.

<sup>22</sup> GANHRI, “Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation, October 2021 in Northern Ireland Human Rights Commission, submission to the ACFC, March 2022, para.1.7 onwards.

<sup>23</sup> Statement UIN HCWS129, Secretary of State for Justice and Lord Chancellor, D.Raab, 22 June 2022, <https://questions-statements.parliament.uk/written-statements/detail/2022-06-22/hcws129>.

<sup>24</sup> Age, disability, gender reassignment, marriage or civil partnership (in employment only, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

ethnic or national origin”.<sup>25</sup> Despite previous recommendations, language as a ground for discrimination remains absent from the Equality Act. Authorities consider it to fall under the definition of “ethnic origin”.<sup>26</sup> After consultations in 2017,<sup>27</sup> the authorities decided against including caste as a protected characteristic,<sup>28</sup> arguing that it fell under the remit of “race” through UK jurisprudence.<sup>29</sup> Under the Equality Act 2010, the Public Sector Equality Duty, which requires organisations to set equality objectives and provides for positive discrimination across protected characteristics, continues to be monitored. In the context of the devolution of powers in Scotland and Wales, respective specific regulations regarding this equality duty apply.<sup>30</sup>

56. In Northern Ireland, pursuant to Section 75 of the Northern Ireland Act 1998, public authorities must have “due regard to promote equality of opportunity for persons” with certain characteristics,<sup>31</sup> as well as foster good relations between persons of different religious belief, political opinion, or racial group. The laws and regulations prohibiting discrimination in Northern Ireland,<sup>32</sup> notably the Race Relations (NI) Order 1997 (RRO), provide for different levels of protection.<sup>33</sup> A review of legislative protection against racial discrimination in Northern Ireland has been undertaken, but the collapse of the Executive is delaying the public consultations on the reform of the racial equality legislation.<sup>34</sup>

57. The UK authorities have passed several laws which have an impact on persons belonging to national minorities’ enjoyment of equal treatment and human rights. The Nationality and Borders Act, amongst other provisions, provides for the removal of citizenship without prior notice for persons who could potentially claim citizenship of another state.<sup>35</sup> The Home Office acknowledges that “it could indirectly

disadvantage protected groups”, among them persons belonging to national minorities.<sup>36</sup> The Police, Crime and Sentencing Courts Act<sup>37</sup> provides for re-criminalising trespass (currently a civil offence)<sup>38</sup> and “unauthorised encampments”, and also provides for the confiscation of the property concerned. The Home Office acknowledges that this law may disadvantage Gypsy, Roma and Traveller communities but that “any indirect discrimination towards [these] communities can be objectively justified” in view of the legitimate aims of prevention and investigation of crime and the protection of the rights of others.<sup>39</sup>

58. Civil society and minority representatives have indicated that the possible replacement or reform of the HRA and the political discourse about a possible withdrawal from the ECHR creates a climate of uncertainty around human rights protection in the UK and the UK’s standing in relation to the European Court of Human Rights. Scottish authorities<sup>40</sup> and NIHRC<sup>41</sup> raised concerns over impact this Bill of Rights will have on their respective nation’s devolution agreements. Interlocutors of the Advisory Committee expressed worries over the content of the Bill of Rights which would reduce and weaken human rights protection. Civil society in Northern Ireland underlined the UK’s duty of non-diminution of rights in the Protocol.<sup>42</sup> They emphasised the need not only to amend the substance of the equality legislation but to do so in a single comprehensive equality act for Northern Ireland.

59. Interlocutors of the Advisory Committee expressed their deep concerns over the effect of the Nationality and Borders Act. Recalling the 2012 reform of legal aid, which contributed to weakening access to legal aid<sup>43</sup>, the removal of citizenship without notice is particularly worrying and instils fear and uncertainty among ethnic

<sup>25</sup> Equality Act 2010, Part 2, Chapter 1, Section 9, <https://www.legislation.gov.uk/ukpga/2010/15/section/9>.

<sup>26</sup> Mandla (Sewa Singh) and another v Dowell Lee and others [1983] 2 AC 548, “For a group to constitute an ethnic group [...] (4) a common language, not necessarily peculiar to the group [...]”; available [here](#).

<sup>27</sup> Caste in Great Britain and equality law: a public consultation, Government Equality Offices, March 2017, available [here](#).

<sup>28</sup> <https://www.shm.org/resourcesandtools/legal-and-compliance/employment-law/pages/global-uk-caste-discrimination.aspx>.

<sup>29</sup> Chandhok & Anor v Tirkey (Race Discrimination) [2014] UKEAT 0190\_14\_1912 (19 December 2014).

<sup>30</sup> Public Sector Equality Duty guidance available [here](#).

<sup>31</sup> Section 75 of the Northern Ireland Act 1998, “(a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; (b) between men and women generally; [...]” available [here](#).

<sup>32</sup> The current legal framework is composed of individual acts and orders addressing distinct aspects of equality: The Disability Discrimination Act 1995; The Race Relations (NI) Order 1997 (RRO); The Fair Employment and Treatment Order 1998; The Employment Equality (Sexual Orientation) Regulations (NI) 2003; The Employment Equality (Age) Regulations (NI) 2006 (Age Regs).

<sup>33</sup> Advisory Committee’s Fourth Opinion on the United Kingdom, adopted on 25 May 2016, para.27.

<sup>34</sup> ECNI, [Shadow report](#), Section 5, February 2022.

<sup>35</sup> See legislation [here](#), and UN OHCHR and Human Rights Watch analysis and UPR [submission](#).

<sup>36</sup> Notably, “both male and female [...] from Iran, Iraq, Sudan, Syria and Afghanistan” and “children, disabled people and people who are vulnerable for reasons linked to other protected characteristics- including [...] pregnancy and maternity, sexual orientation and sex”; from, [Nationality and Borders Bill: equality impact assessment - GOV.UK \(www.gov.uk\)](#), accessed 08/06/2022.

<sup>37</sup> Police, Crime, Sentencing and Courts Act 2022, <https://www.legislation.gov.uk/ukpga/2022/32/contents/enacted>.

<sup>38</sup> Policing powers on unauthorised encampments were dealt under Sections 61, 62, 62A-E, 77 and 78 of the Criminal Justice and Public Order Act 1994.

<sup>39</sup> Home Office, [Equality Impact Assessment](#), 2021.

<sup>40</sup> Joint Committee on Human Rights, [Report on the Human Rights Act reform, 2022](#).

<sup>41</sup> NIHRC, [Shadow Report](#), para.2.17.

<sup>42</sup> NIHRC, [Shadow Report](#), section 4, p.14-15

<sup>43</sup> See Advisory Committee’s Fourth Opinion on the United Kingdom, para. 30 – limitation to free legal aid to discrimination cases in employment.

minorities and other communities. In Northern Ireland, concerns were expressed over the requirement of an Electronic Travel Authorisation for all non-British and non-Irish citizens when travelling between Ireland and the UK. Indeed, permission to travel will require evidence of nationality. NIHRC and ECNI highlighted that it is in contradiction with commitments under the Protocol to avoid a hard border. Additionally, it increases persons belonging to ethnic minorities' exposure to potential racial profiling in cross-border areas.<sup>44</sup> Interlocutors pointed out that this would prove particularly problematic in the context of the 2020 "Shared Ireland Initiative", aiming to increase cross-border cooperation, in particular in access to healthcare.<sup>45</sup>

60. National minority representatives, civil society and equality and human rights bodies also deplored the negative effect of the Police, Crime, Sentencing and Courts Act.<sup>46</sup> Despite international and domestic courts having recognised and protected Gypsy and Traveller communities' rights to a nomadic way of life,<sup>47</sup> this law creates additional fears and acts as an inhibiting factor toward the exercise of this way of life for those communities and persons belonging to them. Minority representatives explained that this law deepens mistrust towards the authorities, in a context where site provisions are insufficient to accommodate their needs (see also Article 5 - Accommodation).

61. Recalling Article 1 of the Framework Convention which states that "minority rights are an integral part of human rights", the Advisory Committee is concerned by the potential replacement of the Human Rights Act by a Bill of Rights and the potential change in the UK's standing towards the European Court of Human Rights which could weaken the human rights protection system. Despite the authorities' claim that the proposals are appropriate, the Advisory Committee shares the concern that persons belonging to national minorities may be disproportionately impacted by the proposed changes.<sup>48</sup> The HRA is an inherent part of the Good Friday Agreement, and it is weaved into devolution agreements allowing devolved authorities to establish specific policies addressing national minority rights. Thus, the Advisory Committee considers that the UK authorities should carefully analyse the impact of the reform on human rights protection, including in the devolved governments, ensure in any revision process of the Human Rights Act no diminution of the rights enshrined.

62. The Advisory Committee recalls Article 4 of the Framework Convention, on the obligation to

"guarantee to persons belonging to national minorities the right to equality before the law and of equal protection of the law". As such, the current fragmented approach in Northern Ireland to anti-discrimination legislation does not guarantee the same protection against discrimination across the UK. Thus, the Advisory Committee considers that comprehensive, unified equality legislation should be adopted for Northern Ireland. In the meantime, strengthening racial equality legislation by continuing the revision process initiated in 2021, so as to eliminate existing disparities, would be welcome.

63. The Advisory Committee is alarmed about the indirect discriminatory effect impacting persons belonging to national minorities as a result of newly adopted legislation, and emphasises that indirect discrimination against communities in a vulnerable situation appears disproportionate as it has the effect of further marginalising a protected group. Specific provisions of the Police, Crime, Sentencing and Courts Act concerning the criminalisation of trespass, run against key aims of the Framework Convention: protection from discrimination and the achievement of full and effective equality between persons belonging to national minorities and those belonging to the majority, by criminalising the protected way of life which forms part of the identity of persons belonging to these communities. Additionally, they inhibit minority social and political participation and risk further marginalising ethnic minorities and within these communities, women and children (see Article 5), whilst limiting access to legal remedies. Against this background, the Advisory Committee is profoundly concerned about the compliance of these changes with the Framework Convention and the impact they will have on the ability of persons belonging to national minorities to defend themselves from discrimination and advance full and effective equality.

64. The Advisory Committee urges the UK authorities to take swift and effective measures to avoid any discriminatory effect of the Nationality and Borders Act and the Police, Crime, Sentencing and Courts Act for persons belonging to national minorities.

65. The Advisory Committee calls on the authorities to effectively guarantee to persons belonging to national minorities the right to equality before the law by adopting comprehensive equality legislation for Northern Ireland and by harmonising protection across the UK.

<sup>44</sup> NIHRC, Shadow Report, March 2022.

<sup>45</sup> See NIHRC, Prof. Tamara Hervey, 'Brexit, Health and its potential impact on Article 2 of the Ireland/Northern Ireland Protocol', March 2022. See also ECNI and NIHRC, *Joint Briefing Paper*, January 2022, ch.5.

<sup>46</sup> Friends, Families and Travellers (2019), *Police oppose criminalising unauthorised encampments and call for more sites*, accessed 01/06/2022.

<sup>47</sup> Chapman v UK [2001] 33 EHRR 399; London Borough of Bromley v Persons Unknown, London Gypsies and Travellers and Others [2020] EWCA Civ 12.

<sup>48</sup> Human Rights Act Reform: A modern Bill of Rights, Ministry of Justice, Annex 3, para.16, p.105, accessed 02/06/2022, available [here](#).

66. The Advisory Committee strongly encourages the authorities to analyse the impact of the Human Rights Act reform on the protection of human rights, and to ensure a non-diminution of the rights in any revision process of the Act, with the aim to maintain full and effective access to human rights for everyone, including persons belonging to national minorities.

## Anti-discrimination measures (Article 4)

67. An action plan to tackle racial and ethnic disparities, titled “Inclusive Britain”<sup>49</sup> has been published, building on the recommendations made by the Commission on Race and Ethnic Disparities.<sup>50</sup> These policy areas being devolved matters, this action plan applies mainly to England. Respective Race Equality Action plans and Strategies are also in place in Scotland, Wales and Northern Ireland.

68. Some devolved administrations have developed specific action plans for Gypsy, Roma and Traveller communities. Wales has published its new strategy, “Enabling Gypsy, Roma and Travellers”,<sup>51</sup> a robust framework addressing intersectional issues faced by persons belonging to these communities. The Scottish Government are continuing with the Gypsy/Traveller Action (*Improving the Lives of Scotland’s Gypsy Travellers*) up to summer 2023.<sup>52</sup> In 2019 the UK Department for Levelling-Up, Housing and Communities announced it would adopt a national Gypsy, Roma and Traveller Strategy, which still remains to be detailed.<sup>53</sup>

69. The Advisory Committee’s interlocutors noted that in Northern Ireland, five years after the launch of the Racial Equality Strategy, which lacks “a detailed narrative, [...] strong high-level commitment and included no discrete funding; and did not include an outcome focused action plan”, little progress has been observed.<sup>54</sup> Reports of increasing inequalities faced by persons belonging to Black Caribbean, South-Asian or other ethnic minorities in accessing healthcare or disproportionality impacting them in losing employment as a result to the Covid-19 pandemic further emphasised the need for specific and targeted measures addressing challenges these communities and persons belonging to them face.<sup>55</sup> The Inclusive Britain strategy, according to minority representatives, fails to acknowledge racism as a driver of inequalities for persons belonging to these minorities, and thus fails to adequately address challenges they face.<sup>56</sup>

70. Interlocutors also emphasised the importance of adopting a specific national (i.e. for England) cross-sectoral strategy to provide a coherent framework of action tackling inequalities faced by Gypsies, Roma and Travellers’ and their

respective needs in, inter alia, education, healthcare, and housing. Parliament’s Women and Equalities’ Committee also called on the Government to adopt a plan.<sup>57</sup>

71. The Advisory Committee reiterates that the Framework Convention calls for positive measures to overcome structural disadvantages in all spheres. These must be developed and implemented in close consultation with those affected and due account must be taken of minority concerns in their design.<sup>58</sup> The Advisory Committee welcomes the Inclusive Britain strategy in principle but is concerned at civil society’s impression of the plan as not addressing the core issue of racism. In the review of the Northern Ireland Race Equality Strategy and the design of the next strategy, authorities should develop, in consultation with representatives of all communities, an outcome-focused action plan, with adequate funding to ensure full implementation.

72. The Advisory Committee welcomes the announcement made by the UK authorities to adopt a national cross-sectoral strategy for England to tackle inequalities faced by Gypsies, Roma and Travellers. Notwithstanding, it is concerned by delays in its development and adoption, in a context of increasing inequalities due to the cost-of-living crisis and pandemic. The authorities could address this in a comprehensive strategy containing specific measures to tackle inequalities and antigypsyism and anti-nomadism faced by persons belonging to this minority in all spheres, with their effective participation. It further considers that this could also have the positive effect of encouraging the Northern Ireland authorities to develop such a strategy for Irish Travellers and Roma in Northern Ireland.

73. The Advisory Committee emphasises that women and youth belonging to national minorities face intersecting forms of discrimination and specific challenges. It thus notes with satisfaction the intersectional approach adopted in Wales, whose plan has a specific section on providing support for survivors of violence against women and sexual violence, as well as in Scotland for developing entrepreneurship opportunities for minority women. Building on these practices, the Advisory Committee considers that UK authorities should ensure that any new national

<sup>49</sup>Department for Levelling Up, Housing and Communities, ‘Inclusive Britain’, 2022. <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities#inclusion>.

<sup>50</sup> Report of the Commission on Race and Ethnic Disparities, March 2021, <https://www.gov.uk/government/publications/the-report-of-the-commission-on-race-and-ethnic-disparities>.

<sup>51</sup> Welsh Government, Enabling Gypsies, Roma and Travellers, June 2018, <https://gov.wales/enabling-gypsies-roma-and-travellers-plan>.

<sup>52</sup> Scottish Government, Supporting Gypsy and Traveller Communities, June 2021, <https://www.gov.scot/news/supporting-gypsy-and-traveller-communities/>.

<sup>53</sup> Center for Policy Studies, Central European University, Gypsy, Roma and Traveller civil society welcomes UK announcement of national strategy, February 2020, <https://cps.ceu.edu/article/2020-02-13/gypsy-roma-and-traveller-civil-society-welcomes-uk-announcement-national-strategy>

<sup>54</sup> ECNI, *Shadow report*, Section 5, February 2022.

<sup>55</sup> An avoidable crisis, a review of the disproportionate impact of Covid-19 pandemic on Black, South-Asian and minority ethnic communities, available [here](#).

<sup>56</sup> See response of Race Equality Foundation [here](#) and the Runnymede Trust [here](#).

<sup>57</sup> Women and Equalities Committee, “*Tackling inequalities faced by Gypsy, Roma and Traveller Communities*”, 2017.

<sup>58</sup> ACFC Thematic Commentary No.4, para.65.

strategy for England tackling racial, or Gypsy, Roma and Traveller inequalities should adopt an intersectional approach, providing specific measures and outcomes in all spheres for women, youth and the elderly (see Article 5) with their effective participation. Such a strategy ought to be accompanied by an action plan and adequate resourcing to ensure its effective implementation.

74. The Advisory Committee urges the authorities to develop and adopt in a timely manner a comprehensive, cross-sectoral national strategy for England to combat antigypsyism and anti-nomadism. This should also tackle inequalities faced, respectively, by Gypsies, Roma and Travellers, in close consultation with them and to have due regard to the needs of women, youth and the elderly from these communities.

75. The Advisory Committee calls on the authorities to review the Northern Ireland Race Equality Strategy 2015-2025 in close consultation with minority representatives to ensure it is adequately funded, outcome focused and tailored to the needs of the minorities. They should also draw-up a strategy to combat antigypsyism for Northern Ireland.

#### Equality Data (Article 4)

76. Contrary to the rest of the UK, there is still no monitoring of ethnic data in Northern Ireland. The Racial Equality Strategy 2015-2025 commits to “examine where ethnic monitoring should be introduced and consult on proposals for implementation”. The authorities commissioned a report on this subject in 2020.

77. ECNI stated that although the final version of the report is not yet available, it contains recommendations on amending the Race Relations Order to “impose a duty on all specified public authorities in Northern Ireland to collect equality data on the ground of “race” and set equality objectives, as well as an online data hub as a central repository for racial equality data in Northern Ireland”. In 2022, a cross-departmental working group was set up to prepare the implementation of the public sector workforce monitoring and develop tools (a guide on ethnic monitoring).<sup>59</sup>

78. Representatives of ethnic minorities emphasised the importance of this process coming to fruition, so that after 15 years of consideration, ethnic data collection and monitoring could be made possible in Northern Ireland. They underlined that the current Race Equality Strategy and other sectoral policies were flawed due to the lack of reliable and consistent ethnic data collection, hampering their efficiency. For instance, civil society indicated that to

conduct needs assessments, they either relied on the 2011 census results, sectoral research such as the 2010 All Ireland Traveller Health Study or other surveys.

79. The Advisory Committee has consistently emphasised the importance of regularly collecting reliable and disaggregated equality data related to the number and situations of persons belonging to national minorities on which governments can base equality promotion policies and specific, positive measures.<sup>60</sup> Thus, it notes that the lack of reliable data on the grounds of “race” makes it difficult for the Northern Ireland authorities to ensure full and effective equality of persons belonging to national minorities through elaborating and implementing targeted policies.

80. The Advisory Committee calls on the Northern Ireland authorities to complete the process allowing for the collection of disaggregated data on the ground of “race”, including for Roma and Irish Travellers, in order to design and implement targeted policies promoting their full and effective equality.

#### Support for national minority cultures, languages and identities (Article 5)

81. The NDNA agreement contains provisions on rights, language and culture, notably to recognise the diversity of identities and cultures in Northern Ireland. It provides for an Office of Identity and Cultural Expression which will aim to build cultural pluralism and respect for diversity, social cohesion and reconciliation and support Northern Ireland’s cultural and linguistic heritage. The Minority Ethnic Development Fund (MEDF) supports minority culture in Northern Ireland, providing support for community organisations working with ethnic minorities to promote good relations. The allocation of funds is made either project-based or on a multi-annual basis for three years. For 2021/2022, GBP 1.22 million was awarded.<sup>61</sup> Pursuant to the Good Friday Agreement, *Foras na Gaeilge* receives funds from Irish and Northern Irish governments and offers multiple funding schemes for cultural and linguistic projects, and funds Irish Language centres (GBP 223 000 annually). The Ulster Scots Agency receives GBP 2.8 million from the authorities to promote the language and culture.

82. In Scotland, Bòrd na Gàidhlig (the Bòrd) is responsible for promoting Gaelic development. It receives an annual grant-in aid award from the Scottish Government of GBP 5.125 million to promote Gaelic usage, learning and status, of which GBP 1.6 million is used to support Gaelic Plan development.<sup>62</sup> Organisations and projects include support for theatres, Gaelic community activities and cultural associations. The Scots

<sup>59</sup> ECNI, Shadow report, 2022, section 4, para.16.

<sup>60</sup> ACFC Thematic Commentary No. 4, para.66.

<sup>61</sup> Northern Ireland Affairs Select Committee, “The experiences of minority ethnic and migrant people in Northern Ireland”, 2021-2022.

<sup>62</sup> <https://www.gaidhlig.scot/en/funding/delivery-partners/>.

language is supported through GBP 500 000 annually from the Scottish Government, mainly to the Scots Language Centre (GBP 90 000 per year) and the Scottish Language Dictionaries. The Scottish authorities, through the Equality and Human Rights Fund, among other funds, support projects aimed at the promotion of equality and tackling discrimination and prejudice. Civil society organisations, some of which represent ethnic minority communities, are able to obtain this funding. For 2021-2024, GBP 24.6 million to be awarded.<sup>63</sup>

83. According to the authorities, Cornwall Council benefited in 2020/21 from GBP 650 million of non-ringfenced, general funding from central government, some of which was encouraged to be spent on Cornish Language and culture, but interlocutors explained that no earmarked funding for Cornish language and culture was administered. Additionally, Cornwall has been successful in securing “Town Deals” of GBP 89 million to fund projects in Truro, Penzance, St Ives and Camborne, including restorations of theatres, historic buildings, promoting Cornwall’s cultural heritage. In 2019/2020, GBP 200 000 was provided by the UK Government to support Cornish language and culture.<sup>64</sup>

84. The Advisory Committee’s interlocutors from Black, Asian and ethnic minorities in Scotland underlined that a specific funding mechanism to support the promotion of their respective communities’ cultures at grassroots level would be welcome. In Northern Ireland, ethnic minority representatives welcomed the review of the MEDF. Further efforts should be made to ensure transparency and that sufficient funding is made available, in a sustainable manner, especially to grassroots level organisations, they stated. The Jewish community in Northern Ireland is facing existential problems as the cost of importing kosher products – which came from Great Britain – has greatly increased due to post-Brexit trading arrangements. This is also the case for Muslim communities importing halal products. Nevertheless it is having a particular impact on the numerically small Jewish community who may no longer be able to sustain living in Northern Ireland.

85. Irish and Ulster Scots representatives welcomed the funding available to them, and expressed hope that recent developments, respectively Irish language legislation (see Article 10) and the recognition of the Ulster Scots as a national minority (see Article 3), will lead to increased funding and policy outcome delivery. Scots representatives indicated that they also

lacked sustainable support for grassroots level activities.

86. The Advisory Committee met with Gaelic representatives on the Isle of Lewis. Amongst them, representatives of the Historical Research society (Cross) – a community centre for Gaelic persons, young and old – and *Fèisean nan Gàidheal*,<sup>65</sup> which provides youth with immersion in Gaelic culture via informal education, art programmes (music and dance festivals, history and language teaching). According to representatives, to continue their activities and the promotion of Gaelic language, culture, history and tradition, the change to multi-annual funding, introduced during the pandemic, has to become permanent. Some Gaelic representatives also consider that the current Gaelic language and policy planning by the Bòrd (see also Article 10), which puts on an equal footing support for Gaelic-speaking communities and the promotion of language learning outside of the traditional areas or areas where Gaelic-speakers live in substantial numbers, does not provide the necessary conditions for their culture and language to thrive. They emphasised that, to counter the decline of Gaelic as the first language spoken within the community, there is a need for additional, specific funds, controlled by the community, allowing them to respond to challenges faced by Gaelic speakers in their areas of traditional settlement (see Articles 10 and 15).<sup>66</sup>

87. Cornwall Council stated that no additional, specific funding for Cornish culture, heritage and language has been provided since the GBP 200 000 in 2019/2020. The GBP 650 million constitutes their annual net budget allocation for Cornwall Council as a whole, meaning that Cornish cultural protection is subject to competition for resources from other priority sectors. Cornish representatives have also informed the Advisory Committee that their ability to preserve and develop their culture is hampered by the prevalence of second homes (see also Article 15). They informed the Advisory Committee of the initiatives such as the establishment of “Screen Cornwall” (support for film and digital sector), the Cornish National Music Archives and the publication of “Cornwall Creative Manifesto 2021-2025”.

88. The Advisory Committee reiterates that persons belonging to national minorities should have access to publicly available funding opportunities, in addition to the special support for the preservation and development of their identities and cultures, as per Article 5 of the Framework Convention. Furthermore, it emphasises that budget allocated on an annual

<sup>63</sup> Equality and Human Rights Fund: projects funded, available [here](#).

<sup>64</sup> Additional Information provided by Cornwall Council on 23/5/2022.

<sup>65</sup> Fèisean nan Gàidheal, at: <https://www.feisean.org/en/feisgoil-en/tog/>.

<sup>66</sup> C. Ó Giollagáin, G. Camshron, P. Moireach, B. Ó Cumáin, I. Caimbeul, B. MacDonald and T. Péterváry, *The Gaelic crisis in the vernacular community: a comprehensive sociolinguistic survey of Scottish Gaelic*, Aberdeen University Press, 2020, available [here](#).

basis or via grants based on competition between projects does not allow all national minorities to have access to funds, run their cultural activities on a regular and stable basis or to draw long-term plans. Consequently, it is of the opinion that, whether for the support of Black, Asian and ethnic minorities or linguistic minorities, notably Gaelic and Cornish, simplifying access to funds by providing sustainable baseline funding for the preservation and development of minority cultures is of the utmost importance. Such funds should be made available through specific funding mechanisms, in which minorities should be adequately represented and take part in the corresponding decision-making. The Advisory Committee praises the work of the organisations and community members on the Isle of Lewis to promote and maintain Gaelic community life, culture, traditions and history. It notes with satisfaction efforts taken by devolved authorities to provide support through multi-annual funding and encourages authorities to generalise this approach for funds allocated to cultural support for national minorities.

89. The Advisory Committee regrets the lack of financial support for Cornish. It commends the work of Cornwall Council in advocating for the rights of persons belonging to the Cornish national minority and reporting on the implementation of the Framework Convention. It emphasises that the central government remains fully responsible for the respect of its international obligations in this field, including under the Framework Convention and European Charter for Regional or Minority Languages. As such, earmarked, baseline funding should be ensured for the support and promotion of Cornish culture and language. The Advisory Committee is concerned at the situation facing the Jewish and Muslim communities in Northern Ireland and considers that this constitutes a blind-spot in current policy and political discourse.

90. The Advisory Committee calls on the authorities, both devolved and for the UK, to provide baseline, as well as specific multi-annual funding, through a dedicated funding mechanism for national minorities. Within such a mechanism, representatives of the respective communities should be able to actively take part in the decision-making process, to support their cultures and languages and identities.

91. The Advisory Committee calls on the UK authorities to ensure sufficient, regular, earmarked baseline funding for the support and the promotion of Cornish language and culture.

## Support for the culture and identities of Gypsies, Roma and Travellers (Article 5)

92. Gypsy, Roma and Traveller representatives in Northern Ireland and England pointed out the lack of sufficient funding available to organisations as a serious obstacle to delivering essential services to their communities and persons belonging to them. The Advisory Committee met with representatives of such organisations, which are conducting commendable work to facilitate access to services in education, accommodation, legal aid, administrative support for persons belonging to these local communities. They underlined difficulties linked to the project-based nature of their funding hampering their ability to fulfil their goals. Scottish organisations such as Romano Lav have not had funding renewed despite running successful projects. Across the UK, since 2010, cuts to community centres have been made and these organisations are not only acting as community hubs for Gypsies, Roma and Travellers, but also step in to perform essential public service tasks where they are lacking and to develop various activities to promote intercultural dialogue. Data from Census 2021 shows that the number of speakers of languages of the Gypsy, Roma and Traveller communities is low, with only 36 people declaring that they speak Irish Traveller Cant, 1 906 speaking “Romany English”, and 160 “Any Romani language”.<sup>67</sup>

93. Gypsy, Roma and Traveller representatives have underlined that they would like to see efforts made to foster the use of the languages spoken by persons belonging to these minorities<sup>68</sup> in public life. They stated that inclusion of these languages under the European Charter for Regional or Minority Languages would be a welcome step in this regard, along with a policy on protecting and enhancing their use. Scottish Gypsy/Travellers are also demanding an apology from the Scottish Government for the ‘Tinker Experiment’, the forced sedentarisation of Gypsy/Travellers from 1940 until 1980, often in severely sub-standard huts and tents.<sup>69</sup> There has been no apology so far for this process which engendered generational trauma. They have also expressed serious concern about a study investigating the genetic heritage of Scottish Travellers.<sup>70</sup> The Advisory Committee considers that truth and reconciliation processes in the context of past assimilation can contribute to building mutual trust in the long run.

94. The Advisory Committee reiterates that persons belonging to national minorities must be provided with effective opportunities to obtain funding for the preservation of their identities and cultures.<sup>71</sup> Problems met by the above-mentioned

<sup>67</sup> See ONS, Census 2021 data on main language, at: <https://www.ons.gov.uk/visualisations/dvc2205/fig1/datadownload.xlsx>.

<sup>68</sup> A non-exhaustive list would include Romani, Anglo-Romani, Romanes and Beurla Reagaird, and Cant or Shelta, languages of Irish Travellers.

<sup>69</sup> See: <https://news.sky.com/story/nicola-sturgeon-considers-formal-apology-for-gypsy-travellers-affected-by-tinker-experiment-12479873>.

<sup>70</sup> University of Edinburgh, Traveller Genes project: <https://traveller-genes.ed.ac.uk/about-us/what-is-traveller-genes>.

<sup>71</sup> ACFC Thematic Commentary No. 4, para.67.

organisations illustrate the need for a more sustainable funding. Authorities should consult with representatives of organisations to identify ways to ensure they are provided with increased and stable financial support. Additionally, efforts are clearly needed from the authorities to protect and promote the Romani languages, especially in view of their vulnerable position and low number of speakers, in collaboration with the minority communities themselves.

95. The Advisory Committee calls on the authorities to provide increased and sustainable funding for civil society organisations providing both social and cultural support for Gypsies, Roma and Travellers.

96. The Advisory Committee encourages the authorities to consider ways to actively promote the use of Romani languages and cultures across the UK in co-operation with minority representatives.

### Gypsy and Traveller Accommodation – England (Article 5)

97. The Planning Policy for Traveller Sites of 2015 (PPTS 2015) altered the definition of Gypsy or Traveller for planning purposes, to exclude from it those who have ceased traveling permanently. Previously, this definition applied to those who had ceased travelling temporarily or permanently.<sup>72</sup> The Government has indicated that it is aware that the current definition may disproportionately exclude elderly Gypsies and Travellers, those with disabilities and those with caring responsibilities (predominantly women) from being granted ‘Gypsy status’, but that this was necessary to achieve the policy objective to restrict the use of such sites to those who had or have a “genuine need” for them.<sup>73</sup> The duty to apply this definition lies with local authorities. Individuals must prove their status when applying for planning permission or a site in order to fit within the provisions of the PPTS – and local authorities must consider the needs of ‘Gypsies’ in their local development plans. The Traveller Caravan Count for England from July 2021 shows a decrease on previous years, with 12% of caravans found on unauthorised sites. There has been a small increase in unauthorised

development on land owned by Gypsies and Travellers, but this is counteracted by a larger decrease in such development on land they do not own. This still demonstrates some unmet need.<sup>74</sup> The Government has launched a GBP 10 million fund for 2022/23 to increase provision and quality of sites across England.<sup>75</sup>

98. The UK Government has also criminalised unauthorised sites, allowing police to confiscate property (see Article 4). The offence will apply in England and Wales<sup>76</sup> “if an individual has failed to comply with a request to leave land and their residence or intended residence has caused or is likely to cause significant damage, disruption or distress”.<sup>77</sup> The Home Office states that the rationale for this legislation stems from a Conservative Party manifesto commitment,<sup>78</sup> acknowledges it is indirectly discriminatory to Gypsies and Travellers and maintains it is justified in view of the legitimate aim pursued (see Article 4).<sup>79</sup>

99. The Advisory Committee has heard the widespread fear which criminalisation has stirred and of the inhibiting effect it is likely to have on the Gypsy and Traveller way of life. Although only a minority of Gypsies and Travellers would set up camp without permission, it is seen as an option of last resort, in particular where there are such shortages of sites. Reports point to the lack of support for the broader accompanying powers to evict those occupying unauthorised sites and seize their vehicles from law enforcement themselves.<sup>80</sup> There are also questions about the consultation process on the Act, which may have marginalised Gypsy and Traveller voices, whilst the authorities claim it validates their action.<sup>81</sup>

100. In a study of the impact of the revised, more restrictive planning definition in 20 local authorities, the EHRC found that the assessed need for pitches fell by 85% compared to the previous assessment. Concretely, this means that pre-2015, 1 584 pitches were identified, whereas post-2015, that figure falls to 345. They also found that some local authorities take into account in needs assessments those who fall outside of the definition – most do not, though. It also appears relatively rare that equality and

<sup>72</sup> The definition is: “Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling Showpeople or circus people travelling together as such.” PPTS, 2015.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/457420/Final\\_planning\\_and\\_travellers\\_policy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/457420/Final_planning_and_travellers_policy.pdf).

<sup>73</sup> EHRC, The impact of the revised definition, p.9.

<sup>74</sup> DLUHC, *Traveller Caravan Count*, July 2021.

<sup>75</sup> <https://www.gov.uk/government/collections/traveller-site-fund-202223>.

<sup>76</sup> The Welsh Government has stated its opposition to these provisions of the Act: <https://gov.wales/written-statement-police-crime-sentencing-and-courts-act>. They indicated that they are working to implement the Act in line with their “progressive approach to justice issues”. The wider situation for this minority in Wales is discussed below.

<sup>77</sup> EHRC, briefing on Police, Crime, Sentencing and Courts Bill, May 2021.

<sup>78</sup> Conservative Party Manifesto, 2019, p.19, available at: <https://www.conservatives.com/our-plan/conservative-party-manifesto-2019>.

<sup>79</sup> Home Office, *Equality Impact Assessment* on Police, Crime, Sentencing and Courts Act, 9 May 2022, s.3.a.

<sup>80</sup> FFT, ‘*Police oppose criminalising unauthorised encampments*’, 2019. Of police forces who responded to the consultation 84% did not support the criminalisation, 75% said the current powers were sufficient, and 65% said the lack of sites was the real problem.

<sup>81</sup> Samuel Burgum, Helen Jones, Ryan Powell, ‘Manufacturing mandates: Property, race, and the criminalisation of trespass in England and Wales’, *Politics and Space*, 2022.

human rights concerns weigh in the considerations of planning inspectors.<sup>82</sup>

101. Gypsy and Traveller individuals and representatives have shared their deep concerns that the cumulative effect is to reduce the space to be an itinerant Gypsy or Traveller, ultimately risking their assimilation. In England, information provided by minority representatives based on government figures shows that there has been a 13.36% reduction in the total number of pitches from 2011 to 2021. That breaks down to an increase by 37.11% of transit pitches – equivalent to 108 pitches nationally, or 11 per year – and a decrease of 16.59% of permanent pitches (from 4 700 to 3 920). Friends, Families and Travellers have also conducted research and found that in southeast England, only eight out of 68 councils have identified enough land on which Travellers could live, exemplifying the shortage of sites.<sup>83</sup> The Advisory Committee has been informed by Gypsy and Traveller individuals that the quality of sites is poor, and they may be ill-adapted to persons with disabilities or the elderly. Repairs may be difficult to have done, and the central role of the warden/site manager means that disputes grow easily. On top of this, the shortage of sites also leads to increased conflict between families as they compete for pitches.

102. The fact that elderly Gypsies and Travellers, those with disabilities and those with caring responsibilities (predominantly women) are disproportionately affected by the new definition of “Gypsy” puts them in an even more vulnerable position. As councils have no obligation to find a site for those that have ceased traveling permanently, many are forced to accept culturally inadequate housing in bricks and mortar (meaning settled housing), or living unauthorised without access to basic services, the only solution then to be declared homeless and running the risk of being criminalised.

103. A lack of will on the part of residents to live near permanent or stopping sites stifles genuine attempts by local authorities to find and provide adequate housing for Gypsies and Travellers.<sup>84</sup> The Advisory Committee saw this for itself during its visit, where one family, having ceased traveling for economic means, has had to be declared homeless in order for the local authority to have a duty to continue housing them. But the provision of culturally adequate accommodation has been put on hold due to objections from the local community, councillors and even local agencies in the form of conservation and heritage

bodies.<sup>85</sup> This is generally expressed through public objections during the application process, or through councillors when decisions on applications are taken. Given the attitudes towards this group (see Article 6), much of this is fuelled by unsubstantiated fear and prejudice. Local public opinion hence has a role in unauthorised development on or of land owned by individuals, as planning permission for converting land to residential use or extending and existing sites is subject to objections of locals. Local authorities have also informed the Advisory Committee that negotiated stopping – whereby people can stop for up to 28 days with the agreement of the authority, and being moved on consensually at the end of the period, was a better way to handle this shortage of sites short-term. However, some interlocutors informed the Advisory Committee that there are examples of solutions for Gypsy and Traveller accommodation which have been to the benefit of the persons belonging to the minorities concerned, the local majority population and with the facilitation of local authorities.<sup>86</sup>

104. Article 5 of the Framework Convention requires states parties both to take positive measures to protect and promote the culture and identity of persons belonging to national minorities, and also to refrain from any measures which may result in forced assimilation – and to protect persons belonging to national minorities from such measures. In this respect, the Advisory Committee recalls that Gypsies and Travellers’ nomadic or semi-nomadic way of life constitutes one of the essential elements of their history, culture and identities. The Advisory Committee further emphasises that the right to adequate housing is a human right, and contains within it the notion of cultural adequacy.<sup>87</sup> It also emphasises the longstanding case law of the European Court of Human Rights that Article 8 ECHR provides a positive obligation to “facilitate the Gypsy way of life”.<sup>88</sup>

105. The Advisory Committee deeply regrets that the planning policy definition of ‘Gypsy’ has not been altered, and that it continues to have a discriminatory effect on the elderly, those with disabilities, and those with caring responsibilities, who are predominantly women. That it has led to a drastic reduction in the number of pitches required by law can only be to the regret of the Advisory Committee, as it clearly has the effect of diminishing the possibilities for Gypsies and Travellers to practise the itinerant way of life and

<sup>82</sup> EHRC, [The Impact of the Revised Definition](#), 2019.

<sup>83</sup> FFT, [‘No Place to Stop’](#), February 2020.

<sup>84</sup> Joseph Rowntree Foundation, [https://www.jrf.org.uk/file/37363/download?token=q\\_l642\\_&filetype=full-report](https://www.jrf.org.uk/file/37363/download?token=q_l642_&filetype=full-report). See Chapter 3.

<sup>85</sup> See for example: <https://plandocs.derbyshiredales.gov.uk/Anite/IM.Websearch/Download.aspx?ID=203050>.

<sup>86</sup> Jo Richardson and Janie Codona MBE, ‘Managing and delivering Gypsy and Traveller sites: negotiating conflict’, Joseph

Rowntree Foundation, Chartered Institute of Housing, De Montfort University, Leicester, 2016. National Policy Advisory Panel on Gypsy and Traveller Housing, ‘Places we’re proud of’, January 2021.

<sup>87</sup> United Nations Committee on Economic, Social and Cultural Rights, General Comment No.4.

<sup>88</sup> ECtHR, *Chapman v. United Kingdom*, app.no.27238/95, 18 January 2001.

raises serious concerns about their access to adequate accommodation. It also reduces the obligations of local authorities – who are not meeting their obligations to provide pitches even under this more restrictive definition. The Advisory Committee also recognises the difficult position of local authorities in navigating their obligations to provide sites and the concerns of local residents and councillors. The principle of democracy in the planning process is important, but so too are the human rights of persons belonging to the Gypsy and Traveller minorities to adequate housing; too often, the concerns of majority residents trump this basic human right. The authorities should therefore provide clear equality and human rights – including minority rights – guidance to local authorities to enable them to take decisions in a way compliant with these rights. Current efforts to tackle prejudices in the local populations are also insufficient (see Article 6). An expansion of negotiated stopping for short periods could also be considered, whilst measures to boost site provision are taken.

106. The criminalisation of unauthorised sites and the potential to seize property has sown fear among communities. The Advisory Committee considers that any benefits to wider society resulting from these measures have not been adequately substantiated. For instance, the Government's evidence shows that in a minority and decreasing number of cases, unauthorised development occurs on land which Gypsies and Travellers do not own; the larger number of such developments being on land owned already by Gypsy or Traveller individuals, which would not be trespass and would rather be dealt with through the planning system. It is also profoundly alarmed that the UK is pursuing a course of action which is knowingly discriminatory against the minority which is most exposed to discrimination in the country. The Advisory Committee considers that this, taken with the systemic site shortage and definition and in the absence of substantive measures to promote the culture of the minority, threatens one of the tenets of Gypsy and Traveller identity and runs counter to the UK's obligations under the Framework Convention. The Advisory Committee observes that in the UK issues around planning dominate the discussion about Gypsies and Travellers. It is therefore of great urgency to work progressively and in partnership with minority representatives to resolve any issues and ensure appropriate provision of culturally adequate accommodation, in light of the positive examples highlighted by some of the Advisory Committee's interlocutors.

107. The Advisory Committee urges the authorities to take priority measures to address the accommodation needs of persons belonging to Gypsy, Roma and Traveller minorities, including through reverting to the pre-2015 definition of "Gypsy" for planning purposes in England, obliging local authorities to provide the sites they have identified through needs assessments, and continuing to work to increase the number of sites and pitches, both transit and permanent. They should also reconsider the implications of the criminalisation of unauthorised sites and the seizure of property in light of the risk of forced assimilation this poses to the minorities.

#### Gypsy and Traveller accommodation – Wales, Scotland and Northern Ireland (Article 5)

108. In Wales a shortage of sites persists, with 86% of caravans being placed on authorised sites in January 2021 (6% of unauthorised sites were on land owned by Gypsies, 8% on land not owned by them).<sup>89</sup> The 'Enabling Gypsy, Roma and Travellers' action plan in Wales contains a wide range of measures to improve access to culturally adequate accommodation, including through raising awareness of remedies for site disputes, for instance.<sup>90</sup> In Scotland, research from 2019 shows that over three years there were 406 locations used for unauthorised sites, and 613 pitches available on public and private sites.<sup>91</sup> But the planning definition has not changed, and GBP 20 million has been allocated over five years from 2021/22 under the Housing Strategy to improve and increase provision of Scottish Gypsy/Traveller sites in Scotland, on top of GBP 2 million provided to make immediate improvements in 2020/21. The Scottish authorities have also put together a pilot on negotiated stopping.

109. In Northern Ireland, data from the Irish Travellers Accommodation Survey 2018/19 show that the number of Irish Travellers living in social housing (bricks and mortar) has increased from 42% in 2002 to 69% in 2019.<sup>92</sup> At the same time, the number living on serviced or permanent sites has decreased from 21% in 2008 to 9% in 2019, and the number living on transit sites has decreased from 5% to 1% over the same period. The Housing Executive also points out that the survey shows general satisfaction with current accommodation arrangements, but states that the cause of this increase in Irish Travellers living in bricks and mortar, whether by dint of a lack of options or active choice, is unknown. In its 2018, 'Out of Sight, Out of Mind' report, which also made a series of recommendations, the NIHRC found that Irish Travellers face the "unpalatable

<sup>89</sup> Welsh Government, Caravan Count January 2021: <https://gov.wales/gypsy-and-traveller-caravan-count-january-2021.html>. There were a total of 1 065 caravans across 139 sites in Wales.

<sup>90</sup> Welsh Government, Enabling Gypsies, Roma and Travellers, 2018.

<sup>91</sup> Gypsy/Traveller Sites in Scotland, 2019, <https://www.gov.scot/publications/gypsy-traveller-sites-scotland/pages/1/>.

<sup>92</sup> Housing Executive NI, Irish Traveller Accommodation Strategy, p.34-5.

choice of living in poor conditions to retain their culture or moving into standard social housing at the expense of their way of life” owing to shortages.<sup>93</sup> Their 2018 study highlighted a range of issues requiring attention; a review of progress made on recommendations showed that few had been implemented fully.<sup>94</sup> A key recommendation was to repeal the Unauthorised Encampments (NI) Order 2005 which has a disproportionate impact on Traveller communities.

110. Representatives of Gypsies and Travellers from Northern Ireland, Scotland and Wales shared the concerns outlined in the section concerning England above, in particular concerning shortages, the difficulties in obtaining permissions and the hostility to sites from the majority.

111. The Advisory Committee welcomes the funding provided for improving sites in Scotland, although it considers that more regular data gathering, such as that which takes place in England and Wales, could be helpful in assessing the needs on a more regular basis. In Wales, measures contained in the action plan are to be commended for their wide-ranging nature and detailed actions, and demonstrate the need elsewhere in the UK for such a comprehensive approach. The move away from the traditional way of life towards settled bricks and mortar accommodation in Northern Ireland is concerning in terms of the authorities’ duty to facilitate this way of life. It is also concerning that the Unauthorised Encampment Order – though rarely used – may still weigh heavily on Travellers’ minds and constitutes an inhibiting factor to effectively living this way of life too.

112. The Advisory Committee asks the devolved authorities to ensure access to adequate accommodation for Gypsies and Travellers and ensure the non-assimilation of these communities; in particular, in Wales to follow-up the relevant action plans with monitoring and evaluation in close co-operation with minority representatives, in Scotland to gather data more regularly on the situation on sites, and in Northern Ireland to continue to address the recommendations contained in the Northern Ireland Human Rights Commission’s 2018 ‘Out of Sight, Out of Mind’ report.

## Intercultural dialogue and mutual respect (Article 6)

<sup>93</sup> NIHRC, ‘[Out of Sight, Out of Mind](#)’, 2018.

<sup>94</sup> NIHRC, ‘[Implementation of Travellers’ Accommodation Recommendations](#)’, 2019.

<sup>95</sup> Joint Council for the Welfare of Immigrants, Windrush Scandal Explained, at: <https://www.jcwi.org.uk/windrush-scandal-explained>.

<sup>96</sup> Baroness Williams, Windrush Lessons Learned Review, “[progress update](#)”, 2022.

<sup>97</sup> Although not the Advisory Committee’s usual practice, the present opinion will use the terminology “people from Black, Asian and minority ethnic backgrounds” to refer to those persons who benefit from protection under the Framework Convention by dint of the Equality Act 2010 under the category of “race”. This

113. The authorities report on some initiatives taken to strengthen intercultural dialogue, notably the Cross-Government Working Groups to tackle antisemitism and anti-Muslim hatred, and a ‘Places of Worship Taskforce’ which worked with religious leaders during the pandemic. The UK authorities also launched in March 2022 the ‘Inclusive Britain’ action plan, which aims to foster societal cohesion by addressing underlying injustices (see Article 4).

114. Representatives of ethnic minorities and civil society organisations have again highlighted the ongoing effects of the so-called “hostile environment”, a set of policies devised in 2012, aiming to reduce immigration. The Windrush Scandal came to light in 2018.<sup>95</sup> It concerned Caribbean immigrants – many of whom had lived in the UK all their lives, having arrived on their parents’ passports between 1948 and 1970 and never having formally registered in the UK – who began to be detained or have their rights to healthcare or pension denied to them. These policies developed under the “hostile environment” which aimed to restrict those rights to persons with the right to be in the UK. It resulted in 83 persons being deported. The UK Government has since apologised for this and opened a compensation scheme. A progress review has stated that not enough progress has been made to ensure another such scandal does not occur, including on outward engagement with civil society.<sup>96</sup>

115. Civil society representatives state that the Windrush Scandal shines a light on the costs of the “hostile environment”. It has been reported that its enforcement has led to indirect discrimination against people from Black and minority ethnic backgrounds,<sup>97</sup> those speaking another language or on the basis of accent. In the case of private landlords, research by the Joint Council for the Welfare of Immigrants shows that there is discrimination against persons belonging to ethnic minorities on the private rental market, and moreover that the stated aims of the policy – i.e. the subsequent removal of those not entitled to be in the UK – have not been met.<sup>98</sup> Checks in the NHS continue to be carried out and charges levied on those unable to prove their status, and the NHS routinely shares patients’ non-medical data with the Home Office for the purposes of immigration enforcement.<sup>99</sup> Civil society highlighted the cumulative effect of mistrust and fear these policies have created among Black

follows some of the practice in the United Kingdom’s Fifth State Report, for example page 4. Whilst this is often abbreviated to BAME, the Advisory Committee recognises the heterogeneity of the needs and concerns of the groups covered by the acronym and will differentiate where appropriate, such as in the present case.

<sup>98</sup> JCWI, ‘[Passport Please](#)’, 2017. The government has published a [code of practice](#) for private landlords on avoiding unlawful discrimination.

<sup>99</sup> MEDACT, ‘[Patients not Passports](#)’, 2019.

and ethnic minorities towards state bodies, in particular those with a migrant background, especially when coupled with recent legislative amendments (see Article 4).

116. A 2021 attitudes survey carried out by the University of Birmingham shows that the group for whom the majority has the most negative view is “Gypsies and Irish Travellers”, with 44.6% reporting a negative view, followed by Muslims with 25.9% reporting a negative view.<sup>100</sup> Overall, in this survey, Sikhs had the least negative views reported about them at 5.6%, but Sikh interlocutors have informed the Advisory Committee how they may also be exposed to anti-Muslim hatred due to a lack of knowledge about their religion in society. In Northern Ireland, attitudes surveys have reflected this general picture, with prejudice against ethnic minorities increasing between 2018 and 2019.<sup>101</sup> The Advisory Committee was also informed that prejudice may also emanate from top-level politicians engaging in ‘dog-whistle racism’ – and that although this may be condemned it has the effect of giving license to racist speech or even attacks.<sup>102</sup> Jewish minority representatives reported that online extremism and self-radicalisation continues to be a threat, especially from the far right. They have also underlined the issue of antisemitism on the political left, exemplified by the findings of the EHRC report into antisemitism in the Labour Party,<sup>103</sup> although they pointed out that the situation has since improved.

117. A number of high-profile incidents of the media fuelling intolerance and hostility towards minorities, concerning public and private broadcasters, have been noted.<sup>104</sup> Gypsy, Roma and Traveller organisations have stated that hostility towards the communities markedly increased following such broadcasts.<sup>105</sup> Occasionally, such examples are condemned, including by ministers. A newspaper opinion piece calling for the removal of ethnic minority status for Travellers also raised serious concerns.<sup>106</sup> A study of media coverage of Gypsies and Travellers shows media outlets’ failure to engage with communities and an over-representation of crime stories in newspapers and in broadcast media, with up to three stories per day concerning Gypsies, Roma and Travellers.<sup>107</sup> It has been reported that at local level as well as national, stories about these

minorities or persons belonging to them most often have a disproportionate focus on crime, including unauthorised sites, or other stories which reinforce negative stereotypes. Other civil society representatives have reported how media also fuel prejudice against other groups, notably Muslims.<sup>108</sup>

118. Social media tends to be used to mobilise against sites, whether authorised or not, becoming a forum for intolerance. Tropes used on these fora, questioning the ‘Traveller’ status ‘, on decreasing house prices linked to sites<sup>109</sup> reinforce longstanding harmful stereotypes about Gypsies and Travellers – being a “folk devil” as it was described by one interlocutor, or the last acceptable form of racism.<sup>110</sup> This has a negative impact on local intercultural dialogue, but also in terms of planning applications for sites – where a community can be mobilised against a planning application and block any development (see Article 5). Persons belonging to linguistic minorities have also pointed out the intolerance and hate speech which they experience online, albeit to a lesser extent than Gypsy, Roma and Travellers.

119. The Advisory Committee has serious concerns about the ongoing fear and mistrust created by the “hostile environment” policies, the Windrush Scandal, and the apparent lack of progress in the Home Office to ensure that such issues do not reoccur. This lack of implementation of key recommendations of the review into what triggered this scandal further hampers trust-building with those concerned. Additionally, the effects of more recent legislative changes and the rhetoric, often backed up in policy, of hostility towards migrants and refugees contributes to this climate of fear and derails any positive attempt at intercultural dialogue.

120. The Advisory Committee is concerned by the findings of attitudes surveys which show a stark level of prejudice against ethnic minorities, and in particular Gypsies, Roma and Travellers. It considers, in connection with findings under Article 4, that this calls for resolute action on the part of the authorities to tackle antigypsyism in society. Likewise, anti-Muslim prejudice and record levels of antisemitism are concerning for the Advisory Committee, and targeted efforts to tackle both of these problems are needed.

<sup>100</sup> <https://www.birmingham.ac.uk/documents/college-artslaw/ptr/90172-univ73-islamophobia-in-the-uk-report-final.pdf>.

<sup>101</sup> Northern Ireland Equality Indicators Report, <https://www.executiveoffice-ni.gov.uk/news/northern-ireland-racial-equality-indicators-report-2014-2019>. See also ECNI, shadow report, paras.8.1-8.5.

<sup>102</sup> See for example: Tell Mama UK, 2018, available [here](#); see also: Community Security Trust, [report](#), 2019.

<sup>103</sup> EHRC, [Investigation into Antisemitism in the Labour Party](#).

<sup>104</sup> Dispatches, ‘The Truth about Traveller Crime’, Channel 4, 2020. See also a Netflix comedy special, 2021: <https://news.sky.com/story/jimmy-carr-condemned-for-disturbing-holocaust-joke-about-travellers-in-netflix-special-his-dark-material-12533148>. See also Runnymede Trust, ‘[England Civil Society](#)

[Submission to UN CERD](#)’, 2021, p.11. See also Eby, B., *The Role of Antiziganism in Brexit*, Journal for Social Thought 6(1), April 2022.

<sup>105</sup> See Traveller Movement statement [here](#).

<sup>106</sup> See Friends, Families and Travellers shadow report, p.18.

<sup>107</sup> Leeds GATE, ‘[Media that Moves](#)’.

<sup>108</sup> Runnymede Trust, ‘[England Civil Society Submission to UN CERD](#)’, 2021, p.11.

<sup>109</sup> Gate Herts, ‘Hate as regular as rain’, <https://gateherts.org.uk/wp-content/uploads/2020/12/Rain-Report-201211.pdf> p.52-3.

<sup>110</sup> For example: <https://travellermovement.org.uk/policy-and-publications/the-last-acceptable-form-of-racism>.

121. Whilst the Advisory Committee emphasises the importance of media freedom in democratic societies, it can only be concerned by the impact of the media portrayal of Gypsies and Travellers on the minority itself and persons belonging to it, and the consequences this has for intercultural dialogue. Social media is demonstrative of a wider prejudice of its users against the development of further sites, and imbued with apparently unshakeable negative stereotypes about Gypsies and Travellers – reinforced by media outlets, looking to drive up clicks and viewing figures with sensationalised stories. The Advisory Committee finds this to be a vicious cycle where prejudice of the population feeds the negative media portrayal, and vice versa. Therefore, the Advisory Committee is of the view that the onus is on the authorities to break this cycle, and take meaningful steps to counter stereotypes of Gypsies, Roma and Travellers through public campaigns, in cooperation with civil society and minority representatives.

122. The Advisory Committee calls on the authorities to actively promote a climate of mutual respect and intercultural dialogue, condemn instances of hate speech made in public and political discourse. In particular they should launch targeted campaigns addressing society as a whole combating antigypsyism, including anti-nomadism, as well as anti-Muslim hatred and antisemitism.

123. The Advisory Committee calls on the authorities to actively engage with media outlets and social media platforms to take steps to combat negative stereotyping and to ensure a balanced portrayal of persons belonging to national minorities.

#### Community relations – Northern Ireland (Article 6)

124. Census data from 2021 also reveals a society which is changing, with the percentage of persons identifying as “British only” decreasing by 8% to 31.9% and the percentage identifying as Irish increasing by 3.8% to 29.1%. Furthermore, the 2021 census found that for the first time, there are more people from a Catholic background religion than Protestant (45.7% v 43.5%). The UK Government has set out a proposal<sup>111</sup> for dealing with Northern Ireland ‘legacy’ issues (the Northern Ireland Troubles (Legacy and

Reconciliation) Bill 2022, hereinafter the Legacy Bill) that is, the investigation and prosecution of crimes committed during the conflict in Northern Ireland. The authorities report that the legislation will establish an independent commission to conduct reviews into Troubles-related deaths and serious injury, offering conditional immunity from prosecution only for individuals who co-operate with the commission's inquiries. Those who are not granted immunity could still be prosecuted. The authorities state that they expect the proposals to facilitate good relations in Northern Ireland between those with different religious beliefs.<sup>112</sup> In June 2022, the Committee of Ministers of the Council of Europe regretted the lack of consultation on the draft and reiterated its position on the need for public confidence and consent to these proposals, concerns it reiterated in September 2022.<sup>113</sup>

125. The Advisory Committee's interlocutors have stressed the seriousness of the situation for community relations. Interviews with children and young people show that fears of the ‘other’ community persist, and are especially marked at certain times of year. It has been shown that ‘newcomer’ families placed in social housing may also feel particularly insecure and isolated during these times. The continued existence of the infrastructure of segregation – peace walls, for example – reinforces the idea that communities should not interact, and that integration may lead to violence, a view which may also be held and taught by parents and grandparents.<sup>114</sup> Interlocutors have also highlighted that hate crime and intolerance tend to flare up before elections, and that the absence of an Executive for much of the past six years has contributed to further entrenching political divides.

126. There is concern that the tensions of the past are resurfacing and being argued along ‘sectarian’ lines via proxy issues – for example access to abortion<sup>115</sup> or the Irish language (see Article 10). In this connection there are political and societal tensions resulting from the UK's withdrawal from the European Union, which provide fertile ground for paramilitary<sup>116</sup> organisations to exploit, including with threats to persons and children belonging to ethnic minorities.<sup>117</sup> The Advisory Committee's interlocutors emphasised that the Protocol on Ireland and Northern Ireland has negatively impacted persons belonging to national minorities. Interlocutors also expressed the view

<sup>111</sup> Northern Ireland Troubles (Legacy and Reconciliation) Bill 2022, <https://bills.parliament.uk/bills/3160>.

<sup>112</sup> NIO, para.38, 39: <https://www.gov.uk/government/consultations/eqia-proposals-for-addressing-the-legacy-of-northern-irelands-past>.

<sup>113</sup> *CM/Del/Dec(2022)1436/H46-35* and *CM/Del/Dec(2022)1443/H46-32*.

<sup>114</sup> McAlister, S., Corr, M-L., Dwyer, C., Drummond, O., “It didn't end in 1998' Examining the Impacts of Conflict Legacy Across Generations’, Queen's University Belfast, October 2021, pp.13-15.

<sup>115</sup> BBC News, ‘Abortion and same-sex marriage moves for NI backed by MPs’ 9 July 2019, at: <https://www.bbc.com/news/uk-northern-ireland-48924695>.

<sup>116</sup> For a discussion of the definition of the term ‘paramilitarism’ see, *inter alia*: NI Select Committee, Oral Evidence Session, ‘The effect of paramilitaries on society in Northern Ireland’, 18 May 2022: <https://committees.parliament.uk/oralevidence/10258/html/>.

<sup>117</sup> Independent Reporting Commission's *Fourth Report*, 7 December 2021. See also: <https://www.belfasttelegraph.co.uk/news/northern-ireland/exclusive-2000-households-forced-out-of-their-homes-paramilitaries-blamed-for-73-of-cases-37676384.html>; ‘It didn't end in 1998’ research report, October 2021, p.23-25.

that uncertainties surrounding the future of the Protocol and the Good Friday Agreement and the guarantees it contains are contributing to worsening community relations. Representatives of ethnic minorities in Northern Ireland have also explained how the focus on “orange and green” divides – that is, relations between Protestants and Catholics, “Irish” and “British” persons, and unionist and nationalist – leaves little room for persons belonging to ethnic minorities to voice their concerns and leaves them feeling overlooked in political discourse.<sup>118</sup>

127. Interlocutors have pointed out that the Legacy Bill emerges from a line of other proposals, including a Command Paper issued by the Northern Ireland Office which was criticised by the Council of Europe Commissioner for Human Rights for presenting “a false dichotomy between investigations and prosecutions on the one hand, and truth and reconciliation on the other”.<sup>119</sup> These proposals have also been criticised by the NIHRC as not in line with the UK’s obligations under Article 2 ECHR.<sup>120</sup> The Advisory Committee also takes note of the concerns of victims and survivors groups about the lack of meaningful consultation, the potential for immunity being granted to perpetrators and the fear this instils in victims – who may still live alongside perpetrators in communities.<sup>121</sup> The NIHRC also points out that it is “impossible” for this Bill to deliver reconciliation “without buy-in from victims and survivors and elected representatives”, especially in light of its provisions on conditional immunity.<sup>122</sup> Interlocutors have explained that these issues are a key barrier to moving forward as a society and need to be properly addressed in order to create conditions necessary for the promotion of intercultural dialogue, and stressed that even in bringing these proposals, community relations are threatened.

128. Whilst noting the Government’s aim to foster good relations and reconciliation through the legacy proposals, and the changes which have been introduced, the Advisory Committee shares the serious concerns of its interlocutors that ending new potential criminal prosecution of those granted immunity from prosecution and providing potential for immunity for serious human rights violations is unlikely to allow society to heal and reconcile; on the contrary, the conditions for meaningful intercultural dialogue will not be met in a society where up to 24% of the population may meet the legal definition of a

victim of the conflict,<sup>123</sup> in which they cannot effectively access justice, and in which perpetrators may not be prosecuted and continue to live side-by-side with victims.

129. The Advisory Committee is alarmed by its interlocutors’ statements and children and young people’s perception of the dangers of integration. The rather piecemeal efforts at integration (see also Article 12) sit within a wider context of entrenched post-conflict division. In this area, as well as others, the absence of a functioning Executive for much of the monitoring period has meant that steps have neither been taken to counter political narratives of conflict and division, nor to tackle the paramilitary organisations. It is equally concerning that these organisations increase in prominence<sup>124</sup> and sow fear among the whole population, including often targeting persons belonging to national minorities. Steps are needed from authorities at all levels to address this situation and foster a climate of intercultural dialogue, and the UK authorities should carefully consider the role they play in ensuring, not disbalancing, community relations in Northern Ireland.

130. The Advisory Committee calls on the authorities to review, in meaningful consultation with civil society, proposals made in the Northern Ireland Troubles (Legacy and Reconciliation) Bill with a view to substantively promoting intercultural dialogue and reconciliation. The authorities should take steps to promote intercultural dialogue in Northern Ireland, effectively counter paramilitarism and actively work to foster integration of society as a whole.

#### Hate crime and hate speech (Article 6)

131. In England and Wales, ‘hate crime’ laws are found in four pieces of legislation. The Sentencing Act 2020 is the broadest of the hate crime legislation. It directs a criminal court to impose on an offender a more severe penalty if the offence was aggravated by the offender’s hostility towards the victim’s (a) race, (b) religion, (c) sexual orientation, (d) transgender identity or (e) disability. The Crime and Disorder Act 1998 provides that where certain offences (assault, criminal damage, public order offences or harassment) were carried out due to a hostility towards a victim’s (a) race or (b) religion, the offender may be convicted of a, separate, more serious version of the offence (e.g., ‘racially-aggravated assault’ rather than ‘assault’). The Public Order Act 1986 criminalises the ‘stirring

<sup>118</sup> Northern Ireland Affairs Select Committee, ‘The Experiences of minority ethnic and migrant people in Northern Ireland’, Second Report of Session 2021-22, 2 March 2022, Summary.

<sup>119</sup> Commissioner for Human Rights, 2021.

<sup>120</sup> NIHRC Annual Statement 2021, p.71-76.

<sup>121</sup> Northern Ireland Affairs Select Committee, ‘Addressing the Legacy of Northern Ireland’s Past: The UK Government’s New Proposals’, Oral Evidence Session, 7 June 2022, <https://committees.parliament.uk/event/13752/formal-meeting-oral-evidence-session/>.

<sup>122</sup> NIHRC, Briefing for the Joint Committee on Human Rights on the NI Troubles (Legacy and Reconciliation) Bill, 4 July 2022

<https://nihrc.org/publication/detail/briefing-on-the-ni-troubles-legacy-and-reconciliation-bill>.

<sup>123</sup> See: <https://www.cvsni.org/news/2021/october/population-survey-shows-overwhelming-support-for-dealing-with-the-past/>.

<sup>124</sup> Independent Reporting Commission’s [Fourth Report](#), 7 December 2021, Summary.

up' (incitement) of hatred in respect of (a) race, (b) religion or (c) sexual orientation. The stirring up offences capture conduct which is threatening (or at least abusive or insulting in relation to race), and where such conduct is intended to stir up hatred (for race, the test is 'intended or likely to'). Fourthly, indecent or racist chanting at an elite football match is an offence under the Football Offences Act 1991. This relates to chanting which is threatening, abusive, or insulting by reason of race, citizenship, ethnic or national origins. In 2018, the Government asked the Law Commission – a statutory independent body that reviews laws in England and Wales – to undertake a review of hate crime legislation. The Law Commission published its final recommendations in December 2021 and the Government is considering its proposals. Although language is not explicitly covered as a ground for hate crime or stirring up hatred in the UK, authorities have indicated that it would be included within the grounds of "ethnic or national origin". In addition, language used in the commission of an offence may be grounds for the crime to be recorded as a hate crime and would apply across all characteristics.

132. In Scotland, the Hate Crime and Public Order (Scotland) Act maintains, consolidates and extends<sup>125</sup> the existing offences and sentencing provisions. This Act provides for new 'stirring up of hatred' offences covering all the above-mentioned characteristics and provides a duty for Scottish ministers to publish data on police-recorded hate crime and convictions, improving and systematising data reporting.

133. In Northern Ireland, an Independent Review of hate crime legislation was carried out and its findings published in 2020. It pointed out that the existing model, whereby courts may take into account aggravating circumstances during sentencing, had attracted criticism during the consultation, and also noted the prevalence of racist hate crime in Northern Ireland, and the need to tackle this in other ways besides only through criminal law.<sup>126</sup> It recommended a statutory aggravation model – whereby the offence is convicted with the aggravation - be adopted for Northern Ireland and defining sectarianism in line with the 2018 review in Scotland which sought to set out a definition in Scots law, and including this as an aggravating factor.<sup>127</sup> This definition is based on "hostility towards the victim (if any) of the offence based on

the victim's membership (or presumed membership) of a Roman Catholic or Protestant denominational group, or of a social or cultural group with a perceived Roman Catholic or Protestant denominational affiliation", as well as (presumed) affiliation with British or Irish nationality or "ethnic or national origins".<sup>128</sup> On this basis, a consultation on new hate crime legislation has been launched by the Department for Justice.

134. The UK authorities have also reported on training sessions provided to the Crown Prosecution Service (CPS) relating to prosecuting hate crime across all strands, but with specific references to Gypsies, Roma and Travellers. The Faith, Race and Hate Crime Grant Scheme has provided GBP 1.8 million to tackle religiously and racially motivated hate crime.

135. In England and Wales, the number of offences committed with a 'hate motivation' on the basis of "race" increased from 64 829 in 2017/18 to 85 268 in 2020/2021. For religion, the number decreased from 7 103 to 5 627. Almost half of these offences concern Muslims as the perceived religion of the victim, and around a quarter Jewish people.<sup>129</sup> However, the authorities also state that the interview-based Crime Survey for England and Wales shows a long-term decrease in hate crime<sup>130</sup> and that the increase in the reported offences is linked to better societal awareness of hate crime, and most importantly, better police recording of hate crimes. In Scotland, 3 285 charges relating to hate crime on the basis of "race" were reported in 2020/21, an increase of 6% on 2019/20, although the authorities indicate a decrease on a 2011/12 peak.<sup>131</sup>

136. Hate crimes and incidents<sup>132</sup> in 2021/22 in Northern Ireland relating to "race" reached their highest level since 2004/5, with 1 334 incidents and 931 crimes recorded. This is now the most common form of hate crime, ahead of sectarian-motivated incidents and crimes, which rose to 1 067 and 780 respectively, their highest levels since 2015/16. Racist crime targeting Roma also increased, and Irish Travellers are disproportionately targeted in relation to their numerical size.<sup>133</sup> The minority groups most targeted were Asian and Black ethnicities, while Poles were the most targeted nationality aside from UK/Ireland.<sup>134</sup> There is a one in 31 chance of being a victim of a racist hate crime, compared to

<sup>125</sup> Race, colour, nationality (including citizenship), ethnic or national origins and religion.

<sup>126</sup> [Independent Review of hate crime legislation in Northern Ireland](#).

<sup>127</sup> *Ibid.*, para.95. See also NIHRC shadow report, para.8.15, 8.16 and 8.22.

<sup>128</sup> See: Scottish Government, 'Defining Sectarianism in Scots Law', final report <https://www.gov.scot/publications/final-report-working-group-defining-sectarianism-scots-law/pages/7/>

<sup>129</sup> Hate crime [statistics](#), England and Wales.

<sup>130</sup> [CSEW Statistics](#).

<sup>131</sup> Scotland figures available [here](#).

<sup>132</sup> According to the [Police Service of Northern Ireland and Northern Ireland Statistics and Research Agency](#), "Hate-motivated crimes and hate-motivated incidents should not be added together as crimes for each motivation strand are included in the incident count for each hate motivation strand".

<sup>133</sup> That is 1 529 and 2 609 people respectively, making up 0.08% and 0.14% of the population, according to the 2021 census.

<sup>134</sup> Summary Data, [Excel](#), Table 2.6, 2.7.

one in 1 777 for a sectarian hate crime – although these figures are based on the 2011 census data.<sup>135</sup> Civil society in Northern Ireland reported that the rate of hate crime is the highest per capita in the UK, although it is the least ethnically diverse nation and with the smallest number of persons belonging to ethnic minorities living there. They also highlighted the disproportionate representation of Irish Travellers in these statistics as a concern. Regarding the legislation, ECNI has recommended a statutory aggravation model and clear sentencing guidelines for courts.<sup>136</sup>

137. Gypsy, Roma and Traveller representatives have noted a reluctance within the community to report hate crime, owing to its normalisation, longstanding mistrust and the belief that nothing will be done about it, as well as literacy issues. This contributes to under-reporting and figures relating to hate crime committed against them being unreliable. Organisations such as Gate Herts, which also runs a hotline for reporting hate crime, have been working with police across England to improve outcomes and reporting of offences by police.<sup>137</sup> In 2021/22, 1 049 hate incidents were reported to Gate Herts, but 76% of these were not reported to the police (an increase on the previous year). Gypsy, Roma and Traveller organisations have pointed out too that the police in England and Wales and Scotland do not disaggregate their data on hate crime in line with the 2021 census categories, effectively making invisible antigypsyist hate crime.

138. Antisemitic hate crime hit an all-time high in the UK in 2021, with 2 255 antisemitic incidents reported to the Community Security Trust, following a record high each year since 2016 apart from 2020.<sup>138</sup> Civil society have also pointed out the rise in hate crime and intolerance targeting those from East and South-East Asian communities with hate crime towards these communities dramatically increasing in 2020, linked to the pandemic.<sup>139</sup>

139. The Advisory Committee broadly welcomes legislative changes in England and Wales and Scotland to consolidate existing standards and provide clear guidance to courts on implementing the aggravating factors. In the Advisory Committee's view, more needs to be done in cooperation with Gypsy, Roma and Traveller organisations, to both collect data on offences relating to this minority, and to build

confidence in the authorities to increase reporting. Commendable work is being done by civil society in this regard, and the authorities should build on this progress. Persistently high levels of antisemitic hate crime are deeply concerning for the Advisory Committee, as is the increase in hate crime targeting persons from East and South-East Asian communities. Causes and police and societal responses need to be carefully studied and adequate preventive measures put in place. The high and increasing level of hate crime in Northern Ireland is also alarming. The level of data in Northern Ireland is commendable – and targeted measures should now be developed in order to address the particular forms of “race”-motivated hate crime effectively.

140. The Advisory Committee calls on the authorities to further increase training for police and prosecutors on recording and prosecuting hate-motivated offences, to work with civil society to gather disaggregated data on these offences, build confidence in the mechanisms available and to redouble efforts in developing the targeted measures needed to address the root causes of these offences.

#### Relations with law enforcement and criminal justice (Article 6)

141. The Home Office states that it is aware of problems around ‘stop and search’, whereby police may stop and search a person if they have reasonable grounds, or if they have reason to believe serious violence may occur in the area. Government evidence shows young Black men are more likely to be stopped and searched than their “White” counterparts.<sup>140</sup> The Home Office reports that it is gathering more data than ever on this and working to overcome the root causes of this disproportionality. It also states that it wishes to empower locally elected Police and Crime Commissioners to help deal with this issue, and sees increasing usage of bodycams as one method to boost trust and transparency. For its part, the National Police Chiefs Council has ordered all police officers in England and Wales to get anti-racism training.<sup>141</sup> Recruitment efforts are also ongoing to diversify the police force, including through the Police Uplift programme.

142. However, the Home Secretary announced that restrictions on the use of stop and search powers under Section 60 of the Criminal Justice and Public Order Act 1994, in force since 2014 to

<sup>135</sup> Independent Review of hate crime legislation in Northern Ireland, para.38. The 2021 census data show that the number of persons identifying as ethnicities besides “White” has doubled since 2011.

<sup>136</sup> ECNI, [shadow report](#), 2022.

<sup>137</sup> Friends, Families and Travellers shadow report; see also Gate Herts [Annual Review](#), 2020-2021.

<sup>138</sup> See Community Security Trust, [Annual Review 2021](#).

<sup>139</sup> ITV News, ‘[Covid racism: Hate crime attacks against east and south east Asians in UK rise by 50% in two years](#)’, 2021. See also: Runnymede Trust, p.16;

End Violence and Racism against East and South-East Asian Communities, [study](#), 2021.

<sup>140</sup> UK Government, [Ethnicity Facts and Figures](#), 2022. There were 52.6 stop and searches per every thousand Black people, compared to 7.5 for “White” people. For the category ‘Black other’, the figure is 158/1000. For people of Asian or mixed ethnicity, the figures are 17.8 and 17.5 respectively.

<sup>141</sup> BBC News, ‘[Police in England and Wales to get anti-racism training](#)’, 24 May 2022: <https://www.bbc.com/news/uk-61563172>.

limit the circumstances under which this power can be used, will be lifted. The aim of this is to increase the use of stop and search.<sup>142</sup> The Home Office states that the risk of increased indirect discrimination is proportionate to the legitimate aim of reducing and investigating crime, although it states that stop and search has a negligible impact on rates of crime. It further recognises that this relaxation of restrictions is likely to have a negative impact on community relations.<sup>143</sup>

143. The Advisory Committee has also been made aware that during the period in which Covid-19 related restrictions on freedom of assembly were in force, Black Lives Matter protests were perceived by persons belonging to minorities to be more heavily policed than other protests and more likely to face violence from police.<sup>144</sup> Data on policing during the Covid-19 regulations from 2021 shows that ethnic minorities were also more likely to be fined than “White” people.<sup>145</sup> A number of high-profile incidents, including the strip-searching in school of a Black school girl on her period (the ‘Child Q case’),<sup>146</sup> other incidents of a similar nature,<sup>147</sup> and discriminatory, racist and misogynistic language being used within the Metropolitan Police,<sup>148</sup> have also been highlighted. It has also been reported that Tasers are disproportionately used against Black and minority ethnic individuals, including children.<sup>149</sup> Civil society representatives state that all of these incidents foment mistrust in the police from ethnic minorities and undermine policing legitimacy. Statistics indeed show that Black people have a lower level of confidence in the police.<sup>150</sup>

144. The Advisory Committee has serious concerns about the distrust between persons belonging to minorities and law enforcement and the disproportionate targeting of people from Black Asian and minority ethnic backgrounds which fuels it. Whilst there is willingness on the part of the authorities to address this and data widely available – this is contradicted by internal directives communicated by politicians, including the aforementioned lifting of stop and search restrictions, which aim to increase the use of this

power. This discrepancy only fuels further mistrust.

145. The Advisory Committee calls on the authorities to take priority measures to address distrust of persons belonging to minorities in law enforcement and the criminal justice system and to actively remedy shortcomings and disproportionate impacts of policing measures, including “stop and search”, on these persons.

### Minority languages and the media (Article 9)

146. The BBC Charter sets out the objective of the public broadcaster, notably to reflect the UK’s diversity and support its regional or minority languages,<sup>151</sup> and the Framework Agreement concluded between the Secretary of State for Culture, Media and Sport and the BBC provides further details on its operational and statutory duties, including to support Welsh language broadcast in Wales (S4C was awarded GBP 88.8 million for two years from 2022, rising in line with inflation thereafter), Gaelic language broadcast in Scotland (MG Alba, funded by the Scottish Government, GBP 12.8 million annually)<sup>152</sup> as well as Irish language and Ulster Scots radio and audio-visual broadcasting. Following the commitment in the NDNA agreement, the Irish Language Broadcast Fund and the Ulster-Scots Broadcast Fund received an additional GBP 2 million to support high quality content for Northern Ireland audience and an independent production sector.<sup>153</sup> The UK Government has published its media White Paper reiterating the authorities’ commitment to minority language media.<sup>154</sup> The BBC also provides radio broadcasting, with dedicated channels for linguistic minority languages, as well as for ethnic minorities (for instance through BBC Asian Network), while there are a number of commercial and community radio stations across the UK providing ethnic and linguistic minority content. Authorities report that five percent of a GBP 47.8 million three-year (2019-2022) fund for children’s television and radio was dedicated to minority language programmes.

147. The Advisory Committee notes good practices to increase diversity in the media by regional broadcasters discussing the identity of

<sup>142</sup> Home Office, [Press Release 16 May 2022](#).

<sup>143</sup> Home Office, [Equality Impact Assessment](#) of relaxation of section 60 restriction, May 2022.

<sup>144</sup> See research by Network for Police Monitoring: <https://netpol.org/black-lives-matter/>.

<sup>145</sup> See National Police Chiefs’ Council, Data pack, <https://news.npcc.police.uk/releases/update-on-coronavirus-fpns-issued-by-police>. In England 75% of fines were given to “White” people, 13% to “Asian or Chinese” and 8% to “Black” people.

<sup>146</sup> See Jim Gamble and Rory McCallum, Local Child Safeguarding Practice Review, Child Q, March 2022: <https://chscp.org.uk/wp-content/uploads/2022/03/Child-Q-PUBLISHED-14-March-22.pdf>. The case garnered widespread media coverage: BBC News, ‘Child Q: School apologises for strip-search of black schoolgirl’, 25 March 2022, at: <https://www.bbc.com/news/uk-england-london-60873858>.

<sup>147</sup> BBC News, ‘Teenage girl traumatised after police strip-search, says mum’, 25 May 2022, at: <https://www.bbc.com/news/uk-61523291>.

<sup>148</sup> Independent Office for Police Conduct, [Operation Hotton Learning Report](#), January 2022.

<sup>149</sup> Runnymede Trust, p.20. Reportedly, out of 1009 uses of Tasers on children by the Metropolitan Police Service, 74% were used against Black or minority ethnic children.

<sup>150</sup> Office for National Statistics (ONS), Crime Survey for England and Wales on perceptions of the police, March 2020 [dataset](#).

<sup>151</sup> BBC Royal Charter: [Charter and Agreement - About the BBC](#)

<sup>152</sup> MG Alba – Gaelic Media Service: <https://mgalba.com/?lang=en> (Seirbheis nam Meadhanan Gàidhlig).

<sup>153</sup> Additional information received from the authorities on 07/06/2022.

<sup>154</sup> Up-Next, White paper available [here](#).

Black persons from different nations and backgrounds.<sup>155</sup> Interlocutors underlined the important work done by S4C and MG Alba to offer not only news content in Welsh and Gaelic, but also to mainstream those language in drama, sports content, cultural content etc. However, some minority interlocutors also pointed out that, aside for channels dedicated to minority languages, their cultures and languages were seldom mainstreamed in the public media.

148. Cornish and Scots representatives regretted the absence of their respective languages from the minority language list established in the White Paper and the Framework Agreement. Building on BBC Alba or S4C's success for the revitalisation of Gaelic and Welsh through support for minority language media, they believe specific provisions for Cornish and Scots in the next Framework Agreement for the BBC Charter to be essential. Cornish representatives emphasised that the premiere of *Enys Men* at the 2022 Cannes International Film Festival, illustrated the prestige, vitality and talent linguistic minority media sector could achieve.<sup>156</sup>

149. The Advisory Committee has not been made aware of specific support for minority language print media. Gaelic and Welsh print media remain available, although limited in number. Some interlocutors indicated that the transition to digital media was a necessary step to ensure the survival of the minority language print media. The Traveller Times, a UK wide newspaper, mainly available in digital format, provide tailored content on issues of interest for Gypsies, Roma and Travellers. Minority language journalists often receive general journalistic training with the possibility to follow minority language classes at universities in which those classes are available. The small-scale nature of this media sector means that there is a need to ensure their sustainability.

150. The Advisory Committee reiterates that the availability of print, broadcast and digital media in minority languages has very emblematic value and is vital to communicate with national minorities. This not only provides access to information, but also raises visibility and prestige of their minority language.<sup>157</sup> It thus welcomes the high-quality content produced by BBC Alba, S4C and independent media industry in minority languages. It considers that authorities could review the Government's policy paper on the future of broadcasting to include provisions for the development of Cornish and Scots language media. Greater efforts should also be undertaken by the BBC to ensure that minority language content is broadcasted on mainstream media and

easily accessible to the majority population, thus participating in raising awareness and the prestige of minority languages among the UK population as a whole. Furthermore, radio and audio-visual content produced by or with Black, Asian and ethnic minorities, including print media for Gypsies, Roma and Travellers, need increased support and funding to ensure sustainability.

151. The Advisory Committee calls on the authorities to ensure that the future BBC Charter and future Framework Agreement include provision for the support and promotion of minority language media, especially Cornish and Scots. Further efforts should be made to broadcast minority language programmes on mainstream television, as well as programmes about Black, Asian, ethnic minorities, including Gypsy, Roma and Traveller cultures, traditions and history.

#### Minority Language policy – Northern Ireland (Article 10)

152. In terms of figures, the 2021 census indicates that 12.5% of people have 'some knowledge' of Irish, whilst 10.4% have some knowledge of Ulster Scots. This is an increase from 11% and 8.1% in 2011, respectively. The NDNA agreement promised legislation on the Irish language and Ulster Scots through legislative amendments to the Northern Ireland Act. They provide for an Irish Language Commissioner, another Commissioner for "the Ulster Scots and the Ulster British Tradition", the naming of which, according to the authorities, is intended to reflect the separation of these two identities and the Government's recognition of the Ulster Scots as a national minority under the Framework Convention. They also give official recognition to the Irish language through this commissioner and the standards its office would develop and give to public authorities – who in turn would be obligated to have 'due regard' to these standards. This forms the basis for the UK Government's proposed Bill put before Parliament in May 2022 in the Identity and Language (NI) Bill, which also contains "step-in" powers to secure the implementation of the legislation which could be used by the Secretary of State for Northern Ireland if the concrete measures are not taken. Additionally, the Expert Advisory Panels on the strategies for the two languages gave their recommendations in March 2022.<sup>158</sup> The Department for Communities is tasked with further development of the language strategies, which will require Executive approval. In October 2022, the Identity and Language (Northern Ireland) Bill was passed in

<sup>155</sup> Liana Stewart, [Black and Welsh](#) (BBC One Wales, 2020) and Stewart Kyasimire, [Black and Scottish](#), (BBC Scotland).

<sup>156</sup> Falmouth University, 'Enys Men' premieres in Cannes', May 2022: <https://www.falmouth.ac.uk/news/enys-men-premieres-cannes>.

<sup>157</sup> ACFC Thematic Commentary No. 4, para.69.

<sup>158</sup> Communities NI, July 2022: <https://www.communities-ni.gov.uk/articles/development-irish-language-strategy-and-ulster-scots-language-heritage-and-culture-strategy>.

Westminster, providing for the commitments laid out in NDNA.

153. The Committee of Experts of the European Charter for Regional or Minority Languages raised concerns that even if the legislation as it was proposed in the NDNA agreement in 2020 were adopted, its lacunae – particularly with regard to education, public signage and media, for example – mean that a comprehensive Irish language act is still necessary to provide legal certainty and transparency. The Committee raised concerns about the non-alignment of the mandates of the two commissioners, and the continued absence of a strategy for Ulster Scots.<sup>159</sup> These concerns have not been reflected in the current legislation.

154. Whilst Irish language speakers' representatives criticised that the legislation provided for in NDNA does not go far enough, they welcomed it as a first step on which further amendments could be made. They regretted that legislation had been blocked so many times by the Northern Ireland Assembly, which was both symptomatic of and had further entrenched the politicisation of the language in Northern Ireland. Some parts of civil society regretted that this legislation has had to be imposed by the UK parliament, as it again threatens to weaken the devolution settlement and its institutions.

155. Ulster Scots representatives highlighted the insufficient state support for their language, the lack of action in diverse fields. They also stated that time and resources are mostly spent defending their interests from political debate. NIHRC has highlighted that “[b]inding the established Ulster Scots community, recognised in international law, with a concept of Ulster British in a single mandate could undermine developments in respect of Ulster Scots language and culture” the “unintended consequences” of this naming, particularly in terms of its potential for politicising this minority identity.<sup>160</sup> Civil society also highlights that this is historically doubtful.

156. The Advisory Committee emphasises the importance of having transparent and foreseeable criteria for the use of minority languages in all areas of public life, ideally expressed through legislation or language strategies. This empowers persons belonging to national minorities, allowing them to know their rights and make use of them. It also enables public authorities, the media and others to better meet obligations flowing from the Framework Convention. The Advisory Committee reiterates the benefits of multilingualism in promoting tolerance and respect for diversity in society.

157. As previously, the Advisory Committee sees legislation as an appropriate step for

protecting and promoting the use of Irish in Northern Ireland. It therefore welcomes this legislation introduced in the UK parliament. Regarding Ulster Scots, the Advisory Committee again welcomes the creation of a commissioner to promote this culture and language, but shares the concerns of the NIHRC concerning the definition and its potential to politically instrumentalise the minority identity.

158. The Advisory Committee welcomes in principle that legislation on the two languages has been passed. However, it still has concerns about the implementation of the legislation through concrete measures by the Northern Ireland authorities – although the “step-in” powers, according to the authorities, should play a role in securing this. As of October 2022, the Executive is still not functional following its dissolution in February 2022. This runs the risk of both non-implementation of the legislation passed by the UK Government and the continuing politicisation of language issues long into the future. Bringing forward legislation on the two languages simultaneously may have its merits, but it also risks further entrenching the ‘tit-for-tat’ approach to them which has characterised recent developments in Northern Ireland. Authorities should rather work towards the consensual solution of issues relation to language policy in Northern Ireland; the languages are spoken across communities, and the instrumentalisation of the languages for political ends results only in persons belonging to national minorities across Northern Ireland having no effective access to their rights and deepening existing sectarian divides. On the contrary, the fact that both languages are spoken across communities in Northern Ireland offers the possibility for these languages to be tools of integration, rather than division. Furthermore, and in spite of the authorities’ intentions to the contrary, the legislative conflation of Ulster Scots and Ulster British may unnecessarily provoke instrumentalisation of this group for political ends in the context of Northern Ireland.

159. The Advisory Committee calls on the authorities to ensure the implementation of the Identity and Language (Northern Ireland) Bill, and to work with representatives of the Irish-speaking community to further develop Irish language policy in Northern Ireland. They should also consider revising the Bill in consultation with the Ulster Scots minority representatives to address the conflation of Ulster Scots and Ulster British identities.

#### Minority language policy (Article 10)

160. The Scottish Government continues to support the promotion and development of Gaelic language through the Gaelic Language Act 2005,

<sup>159</sup> See Committee of Experts, [Evaluation of recommendations for immediate action](#), 2021, para.21.

<sup>160</sup> NIHRC, [Shadow report](#), para.9.31.

which established the Bòrd and its duties to develop Gaelic Language Plans (see Article 5). Building on the review of the 2018-2023 National Gaelic plan, the Bòrd is currently conducting consultations on the National Gaelic Plan 2023-2028. The Scottish Government published in 2015 a Scots language policy, through promotional measures for the use of Scots in education, cultural life, stakeholder groups development of Scots language policies. The Scottish Government has announced a review of the Scots Language policy, which has been delayed due to the Scottish Government's consultation on the future of Gaelic and Scots, and will be updated in due course. In Wales, Census 2021 data has shown a 1.2% decline in the number of Welsh speakers since 2011, driven by a decline in the number of children and young people able to speak the language.<sup>161</sup>

161. Representatives of Scottish Gaelic communities living in traditional areas of settlement where Gaelic still has a “vernacular” presence – that is, as a first language and not learned as a second language – underlined the need for a change of paradigm in the next National Gaelic Language Plan. They welcome the work undertaken by the Bòrd to promote Gaelic as a secondary or ‘learners’ language, raising awareness of its profile in areas in which it is not traditionally spoken in Scotland. However, they consider that the next language policy should have a focus on empowering “vernacular” communities through measures to remedy the specific challenges they face.<sup>162</sup> The Bòrd seems to be open to these ideas expressed during the consultations. Representatives also regretted the Bòrd's lack of enforcement power for the language plans.

162. Scots' interlocutors underlined that, according to the 2011 census, there are potentially 1.5 million people self-identifying as Scots speakers. They welcomed the support provided by the Scottish Government to their linguistic and cultural organisations. The commitment to deliver a “Scottish Languages Act” in which Scots would be included is welcomed and they hope that the review of the Scots Language policy will lead to the adoption of legislation – which they see as necessary, along with a body similar in functions to the Bòrd in order to raise the status and profile of Scots.

163. Cornwall Council and community groups have developed a Cornish Language Strategy 2015-2025 which sets out a number of measures to ensure Cornish can be used in public life.<sup>163</sup> However, many of the areas which require action need to be implemented by the Government – Cornwall Council itself not having the competency over media, education or the bulk of road signage. The Council are therefore seeking a ‘Devolution Deal’ which would grant them powers over areas such as those (see Article 15). Cornish representatives indicated that the Council was one of the few bodies providing services in Cornish. A positive development in this respect is the on-going revision of the Marriage Law for England and Wales, which now allows ceremonies to be conducted in Cornish. However, data from Census 2021 show that the number of people declaring Cornish as a “main language” has remained static over the past 10 years, at 567.<sup>164</sup>

164. The right to use one's language in private and in public, orally and in writing, freely and without interference, is one of the principal means to assert and preserve linguistic identity.<sup>165</sup> Thus, balanced and coherent strategies are an essential tool to promote the conditions necessary for persons belonging to national minorities to maintain and develop their languages. The Advisory Committee welcomes the respective reviews of the language policies promoting the use of Gaelic and Cornish in the public sphere. It particularly commends the work of Cornwall Council to promote the use of Cornish, despite limited funding and a lack of devolved powers (see Article 5 and 15). In light of census data, the UK authorities should consider, in any negotiations on devolution for Cornwall, to allow local authorities to have the necessary powers to fully implement the Cornish Language Strategy. Further support is needed to promote Scots language and raise awareness and prestige around it, including through the “Scottish Languages Act”. The Advisory Committee welcomes the active involvement of minority representatives in the design of the different Language plans. Authorities establishing these plans should continue to strive for meaningful and effective consultations of persons belonging to minorities in the development of language policies, and aim to reflect diverse perspectives, including those of women, youth and the elderly. As such, the Advisory Committee is of the opinion

<sup>161</sup> An estimated 538 300 reported as speaking Welsh in 2021, around 23 700 people fewer than in 2011. See Welsh Government, 6 December 2022: <https://gov.wales/welsh-language-wales-census-2021.html>.

<sup>162</sup> “Vernacular” is used here in the sense applied in the study: C. Ó Giollagáin, G. Camshron, P. Moireach, B. Ó Cumáin, I. Caimbeul, B. MacDonald and T. Péterváry, *The Gaelic crisis in the vernacular community: a comprehensive sociolinguistic survey of Scottish Gaelic*, Aberdeen University Press, 2020, available [here](#). The work has also been subject to some academic debate, see for instance: McLeod, W., Dunbar, R., Macleod, M., O'Rourke, B., Dunmore, S., & Armstrong, T. C. (2022). Against

exclusionary Gaelic language policy: A response to Ó Giollagáin and Caimbeul. *Scottish Affairs*, 31(1), 84-103. <https://doi.org/10.3366/scot.2022.0399>.

<sup>163</sup> Cornwall Council, Cornish Language Strategy 2015-2025, <https://www.cornwall.gov.uk/media/c3npwb2/cornish-language-strategy-2015-2025.pdf>.

<sup>164</sup> ONS, Census 2021 Data, Main Language, <https://www.ons.gov.uk/visualisations/dvc2205/fig1/datadownload.xlsx>.

<sup>165</sup> ACFC Thematic Commentary No. 3, The Language Rights of Persons Belonging to National Minorities under the Framework Convention, adopted on 24 May 2012, para.52.

that, the National Gaelic Plan 2023-2028, should reflect concerns of “vernacular” language communities and, in consultation with them, contain dedicated measures to tackle the specific challenges they face (see articles 5 and 15).

165. The Advisory Committee strongly encourages the Scottish authorities to continue increasing the use of Gaelic via the National Gaelic Language Plan 2023-2028. They should ensure it adequately address the diverse perspectives and challenges faced by persons belonging to the minority, including in areas traditionally inhabited by persons belonging to the Gaelic-speaking minority in Scotland and amongst them, women and youth. Furthermore, they should continue to promote the use of Scots in the public sphere by adopting a new language policy, in close consultation with community representatives.

### Topographical indications (Article 11)

166. Regulations on topographical indications vary between the nations and even at local level. In Northern Ireland, civil society and academia have drawn together the differing applicable regulations across the council areas.<sup>166</sup> In essence, some have thresholds of around 15%, some require the applicants to bear costs, and some additionally require a two-thirds majority of the street in question to agree (although in Belfast the two-thirds majority rule was changed to a requirement for a single resident to apply followed by a demonstration of 15% support in July 2022), and then a further vote by the Council to ratify the bilingual signage. Some areas have no policy. In Cornwall, bilingual signs are put in place by Cornwall Council (e.g. Welcome to Cornwall / Kernow a'gas dynergh), but other signs are in English. By contrast, in Wales, all road signs are bilingual, and there is a general policy of bilingualism in public-facing information established by the Welsh Language Standards – which also mandate Welsh to be shown so it can be read first. In Scotland, Scottish Gaelic appears on road signs above English in the Highlands Council area, and on major trunk roads. Responsibilities are shared between the Highland Council and Transport Scotland.<sup>167</sup>

167. Representatives of Irish speakers pointed out the problems faced in advancing any bilingual signage in Northern Ireland and the variations between municipalities. They stated that the need for ratification by councils of such signs posed an additional political barrier to signage. Additionally, they reported that signs in some areas would be shot at or destroyed through vandalism – although councils tend to quickly replace signs

where this happens. Scots speakers also informed the Committee of their work in having produced a map of Scots place names which has not been adopted into public signage.<sup>168</sup> Cornish representatives expressed dissatisfaction that Cornish is the only minority language not explicitly permitted in the Traffic Signs Regulations 2016, meaning that Cornish is not used on signs other than those erected by the Council itself.

168. The Advisory Committee reiterates that “bilingualism in signposts should be promoted as it conveys the message that a given territory is shared [...] by various population groups.” However, “Article 11.3 of the Framework Convention requires that the display of signs in minority languages be given a clear and unambiguous legislative basis. It is not sufficient if this practice is granted as a matter of fact but unsupported by law. [...] [w]hile states have a margin of appreciation in determining the threshold, this must not be exercised in such a manner as to constitute a disproportionate obstacle with respect to certain minority languages.”<sup>169</sup>

169. The Advisory Committee is concerned that the lack of transparency as to procedures in Northern Ireland, and the burdensome requirements for implementing minority language signage, create a practical and disproportionate obstacle to the implementation of Article 11(3) and may also have a dissuasive effect on persons belonging to national minorities willing to enjoy their rights. A threshold of two-thirds for the use of a minority language is demonstrably prohibitive and the Advisory Committee is satisfied to note that this has now been changed in Belfast. The exercise of the right should be guaranteed in a fair and transparent manner without leaving a political margin of appreciation and space for sectarianism. The Advisory Committee has taken note that the proposals put forward by the UK Government relating to the Irish language in May 2022 contain no provisions as to the display of topographical indications in minority languages (see also Article 10). It is disappointing that in Cornwall, implementation of this right remains limited – and more active efforts from the authorities are required. The authorities should also take active steps to fulfil Article 11 of the Framework Convention in partnership with Cornwall Council, and the Scottish authorities could engage further with Scots’ representatives to include Scots language on topographical indications across Scotland.

170. The Advisory Committee asks the authorities to guarantee a transparent and

<sup>166</sup> Conradh na Gaelige, CAJ, Ulster University, ‘Local Councils, Obligations and the Irish Language: A Framework for Compliance’, 2019.

<sup>167</sup> See Transport Scotland: <https://www.transport.gov.scot/publication/guidance-on-the-use-of-bilingual-gaelic-english-traffic-signs-in-scotland/>.

<sup>168</sup> See Scots Language Society, <https://www.scotslanguage.com/pages/view/id/33>.

<sup>169</sup> See: ACFC Thematic Commentary No.3, para.65, 67.

consistent approach to the display of topographical indications in minority languages across England, Scotland and Northern Ireland, in conformity with Article 11(3) of the Framework Convention.

### Intercultural education (Article 12)

171. The state report affirms that Gypsy, Roma and Traveller history and culture can be taught as part of the history curriculum, and in other areas, notably relating to the Holocaust. The UK authorities have further stated that in the history curriculum, teachers have the scope to teach about colonialism and the UK's multicultural history, and are responding to the increased attention this subject receives.<sup>170</sup> Little information about teaching of this nature in other subject areas was received, but a model history curriculum is being developed by an expert panel by 2024, aiming to ensure all pupils are taught a shared knowledge of British history and world history.<sup>171</sup> Education being devolved, the picture also differs between nations. In Scotland, a new Race Equality and Anti-Racism in Education Programme (REAREP) was established in January 2021, aiming to broaden and increase the diversity of teaching staff, address the contribution of people of colour to Scotland's history and culture, as well as Scotland's role in the slave trade and the British Empire. Resources have also been created in Scotland to provide lessons about the history and culture of those from itinerant cultures, including Gypsy/Travellers and Roma. The Curriculum for Wales also contains a component on teaching about the multi-ethnic nature of Wales, and a minority working group was formed provide input in advance of the new curriculum, which was critical of resources which focused too heavily on slavery and colonialism. Recommendations of its final report were given GBP 500 000 for implementation and included in the Welsh Government's Race Equality Action Plan, which also aims to improve diversity in teaching.<sup>172</sup>

172. Gypsy, Roma and Traveller representatives regret that Holocaust teaching about Roma and Sinti as victims is not compulsory.<sup>173</sup> They have also highlighted how the lack of information about the minority cultures, history and identities fuels prejudice.

Moreover, they state that this has a negative impact on access to education as it appears as though schools have no place for them.

173. The Black Lives Matter movement sparked a discussion about the teaching of the UK's history and diversity and the lack of teacher diversity. Some civil society organisations have raised concerns about the possible marginalisation of ethnic minority histories given the freedom which schools have to choose what to teach,<sup>174</sup> and studies have shown that "Black British history" may be absent from the General Certificate of Secondary Education (GCSE) curriculum.<sup>175</sup> Where present, it is usually in the context of the slave trade. Indeed, the review of the Windrush Scandal (see Article 6) found that it was allowed to happen in part due to a 'poor understanding of Britain's colonial history, the history of inward and outward migration, and the history of Black Britons'.<sup>176</sup> Whilst civil society representatives welcomed the Welsh Action Plan, concerns have been raised about its implementation – including the lack of mandatory teaching of diverse perspectives on history and the lack of diversity in teaching and other educational staff, including on governing boards. Data also shows that the teaching workforce is disproportionately "White British", and this is especially so for headteachers.<sup>177</sup> Civil society has also highlighted the lack of Black authors on the English literature curriculum in England, although these choices are made at the level of the school.<sup>178</sup> Sikh representatives have also stated regret at the lack of knowledge young people tend to have about their religion and culture, and how this ignorance contributes to racism.

174. The Advisory Committee reiterates that 'school education should offer a fair reflection of the linguistic and cultural diversity of society and thereby promote the values of tolerance, intercultural dialogue and mutual respect'.<sup>179</sup> Teaching about colonialism and British Empire is welcome, but to deepen and widen curricula, the active involvement of persons belonging to minorities in the development of curricula and an open dialogue on issues of particular sensitivity would be welcome. The development of further curricula emphasising the positive contribution of

<sup>170</sup> The authorities also state that GCSE specifications in history should enable students to: develop and extend their knowledge and understanding of specified key events, periods and societies in local, British, and wider world history; and of the wide diversity of human experience. They further state that there is scope in the specific themes to cover Black British history.

<sup>171</sup> [Model history curriculum expert panel - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/model-history-curriculum-expert-panel)

<sup>172</sup> <https://gov.wales/diversity-curriculum-timeline.html>.

<sup>173</sup> Friends, Families and Travellers, Shadow Report, p.21.

<sup>174</sup> Race Equality First shadow report, and Runnymede Trust CERD shadow report, p.37.

<sup>175</sup> The Guardian, 'Black British history: the row over the school curriculum in England', July 2020, <https://www.theguardian.com/education/2020/jul/13/black-british-history-school-curriculum-england>. See also the project Black Curriculum: <https://theblackcurriculum.com/downloads>.

<sup>176</sup> Baroness Williams, [Windrush Lessons Learned Review](#), 2021, p.139.

<sup>177</sup> The teaching profession is composed of 85.1% of persons identifying as "White British" and compared to 78.5% in the general workforce (2011). For headteachers this is 92.5%; See Ethnicity Facts and Figures, based on the Race Equality Audit, February 2021, <https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/workforce-diversity/school-teacher-workforce/latest>.

<sup>178</sup> Runnymede Trust, CERD Submission, p.37.

<sup>179</sup> ACFC Thematic Commentary No.3, para.82. Also OSCE High Commissioner on National Minorities, Ljubljana Guidelines on the Integration of Diverse Societies, 2012, Guideline 45.

minorities to UK society is necessary to further foster intercultural dialogue and counter racist attitudes in schools. The measures set out in Scotland and Wales are welcome, including to increase diversity in the teaching profession which could also help tackle racism and racist incidents, and the integration of the contribution of the consultation group into the eventual action plan is to be commended. Adequate resourcing, monitoring and follow-up to these plans is needed to ensure the outcomes are achieved in practice. Additionally, whilst the focus on Black British history and culture is welcome and justified, the Advisory Committee considers that attention also needs to be paid to ensure the representation of Gypsies, Roma and Travellers across the curriculum – including through the languages of the community (see Article 5). The Advisory Committee also reminds the authorities of Committee of Ministers Recommendation (2020)2 “on the inclusion of the history of Roma and/or Travellers in school curricula and teaching materials” and emphasises the importance of its implementation.<sup>180</sup>

175. The Advisory Committee calls on the authorities to ensure the representation of minorities across curricula in the UK, as well as in teaching and learning materials and teacher training, with special attention also paid to the culture, history, traditions and identities of Gypsies, Roma and Travellers, in co-operation with persons belonging to national minorities. Authorities across the UK should pay attention to increase diversity among education staff.

#### Integrated and shared education – Northern Ireland (Article 12)

176. The NDNA agreement provides for a review of the education system in Northern Ireland, with a focus on the “prospects of moving towards a single education system” – a system which at present remains largely segregated along religious lines – although schools point out that they are accepting increasingly diverse intakes.

177. The state report indicates that the Advisory Committee’s previous recommendation to establish a legal basis for shared education has been fully implemented with the entry into force of the Shared Education Act (Northern Ireland) 2016. This Act places a legal duty on the Department of Education to “encourage, facilitate and promote shared education”, defined as “the education together of (a) those of different

religious belief, including reasonable numbers of both Protestant and Roman Catholic children or young persons” as well as those of different socio-economic background. The policy document accompanying the legislation however leaves a large discretionary power to schools which results in an inconsistent approach across Northern Ireland. The legislation also provides a duty to report to the Assembly; the latest of these reports from March 2022 shows that numbers increased from 2016 to 2019, when 87 385 pupils were involved in Shared Education in 716 schools (25% of pupils compared to 22 036 pupils were involved in 2016);<sup>181</sup> however, in 2020/21, due to Covid-19 lockdown measures which resulted in periods of school closures only 5% of pupils took part. The UK Government itself continues to fund the development of shared and integrated education, including through a 10 year-long, GBP 500 million programme to support capital building projects. This commitment resulted from the Fresh Start Agreement in November 2015 and continues to be carried out by the UK Government, supporting the building of five Shared Education campuses and 23 integrated schools. Separately, in July 2022 the UK Government announced a further GBP 1.9 million programme to support parents and teachers through the process to transform schools to integrated status. EU funding – for instance through the Peace IV Programme has also played a role. The PEACEPLUS programme, funded jointly by the UK, EU and Ireland, should continue the work, once approved by the European Commission.

178. Integrated education has a different legislative basis in the Integrated Education Act (Northern Ireland) 2022. It is defined as “the education together, in an integrated school” of those of different cultures, plus the other groups mentioned above, with the addition of those of different abilities. An integrated school is defined as one which “intentionally supports, protects and advances an ethos of diversity, respect and understanding between those groups”.<sup>182</sup> It also has five specified purposes – including promoting good relations and respect for identity, diversity and community cohesion. The Act also introduces a duty to consider the integrated model when setting up a school and to consult accordingly. As of 2020/21, there are 65 grant-aided integrated schools in Northern Ireland involving 24 861 pupils,<sup>183</sup> out of a total of 1 123 schools and 341 000 pupils.<sup>184</sup> This is an increase on the previous year,<sup>185</sup> but still means that only

<sup>180</sup> Recommendation CM/Rec(2020)2 of the Committee of Ministers to member States on the inclusion of the history of Roma and/or Travellers in school curricula and teaching materials [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016809ee48c](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee48c).

<sup>181</sup> Second report to Assembly: <https://www.education-ni.gov.uk/publications/advancing-shared-education-report-northern-ireland-assembly-june-2020>; Third report to Assembly: <https://www.education-ni.gov.uk/publications/advancing-shared-education-3rd-report-ni-assembly>.

<sup>182</sup> Integrated Education Act (Northern Ireland) 2022.

<sup>183</sup> <https://www.education-ni.gov.uk/articles/integrated-schools>. For information on school types: <https://www.education-ni.gov.uk/articles/information-school-types-northern-ireland>.

<sup>184</sup> BESA, *school statistics*, 2021.

<sup>185</sup> NIHRC, shadow report, para.11.17.

around 7% of Northern Ireland's pupils and students attend integrated schools – which are over-subscribed.<sup>186</sup> The Advisory Committee notes that this Act was passed as a private member's bill, not emanating from the Department of Education, and against some opposition who claimed it put the integrated sector on a superior level to other forms of education.

179. Concerning the differences between these models, research has established some key differences, described for instance as: "Integrated schools are initiated and established by parents while Shared Education programmes are promoted and supported by EA [the Education Authority], guided by school leaders and endorsed by Boards of Governors – with nominal parental representation."<sup>187</sup> The researchers also state that shared education "is a pragmatic response to slow growth of Integrated schooling" and relies heavily on collaboration with other schools of a different denomination, which means that the logistical and organisational aspects may inhibit activities being organised. They have also found that 93% of pupils continue to be educated in segregated educational institutions.

180. Concerns have been voiced, including by the NIHRC, that funding and operationalising Shared Education has been achieved with EU funds and projects, which, post-Brexit, may be at risk of not continuing or being subject to political will.<sup>188</sup> Additionally, whilst Shared Education as a principle was welcomed, its non-structured and loosely defined nature raised concerns among the Advisory Committee's interlocutors, as it may vary from school to school and ultimately, be devoid of meaningful contact and content to bridge community divides. The Advisory Committee also takes note that the UN Committee on the Rights of the Child (UNCRC) recommended in 2016 that Northern Ireland actively promote a "fully integrated education system".<sup>189</sup> Concerning this, interlocutors expressed regret at the continued lack of integrated education, although they welcomed the Act in itself. They have stressed that segregation in the education system maintains social divides, entrenches generational social distance between communities, and removes the very possibility of the integration of society as a whole (see also Article 6). Indeed, a study based on interviews with children and young people found a need for increased provision and funding

of integrated education in line with the UNCRC recommendation.<sup>190</sup> It has also been noted that of the 65 integrated schools in existence, all were created through the will of parents and communities – not by the authorities.<sup>191</sup>

181. The Advisory Committee reiterates that "education is one of the most important tools for furthering integration and social cohesion and should be an integral part of integration policies [and] [...] one of the most effective ways to promote intercultural contact and understanding and a shared sense of civic identity."<sup>192</sup> It stresses that the promotion of tolerance and respect for diversity must not only be taught as a subject in class but must be lived through the organisation of joint classes wherever possible, as well as through the respectful accommodation and affirmation of the various beliefs present in the schools.

182. The review of education provides the opportunity to assess the relative merits of the different systems in a non-partisan way, and the Advisory Committee looks forward to the results. The Advisory Committee also welcomes the legislative changes which have codified both Shared and Integrated Education in Northern Ireland, and brought about certain reporting and procedural duties, as well as the funding provided by the UK Government. However it remains concerned that, in practice the margin of appreciation left to schools to implement Shared Education is too wide for it to effectively guarantee intercultural education – that is, to adequately build bridges and remove barriers between pupils from different communities, which should be the main aim of this form of education. Its existence also competes with and may even undermine the Integrated Education sector. Likewise, the huge reduction in the number of pupils engaged in these activities during the pandemic is of concern – even if there are reasons behind it. Remedies to this shortfall will be needed in the years ahead. The Advisory Committee is also concerned at the low proportion of pupils in Integrated Education – although it is encouraged by the number of persons who apply to integrated schools. The authorities should urgently look to address this demand and increase the number of places available in those over-subscribed schools and establishing additional such schools. It considers that the present situation in education in Northern Ireland perpetuates existing divides, and that the

<sup>186</sup> Ibid. 3 032 pupils applied for a place and 2 310 were offered one.

<sup>187</sup> Ulster University, Transforming Education, Briefing Paper on Shared and Integrated Education: [https://www.ulster.ac.uk/data/assets/pdf\\_file/0016/1028320/TEUU-Report-13-Integrated-and-Shared-Education.pdf](https://www.ulster.ac.uk/data/assets/pdf_file/0016/1028320/TEUU-Report-13-Integrated-and-Shared-Education.pdf).

<sup>188</sup> Ibid., 11.25.

<sup>189</sup> UNCRC, Concluding Observations, 2016, para.72e.

<sup>190</sup> Queens University Belfast, Centre for Children's Rights and Commission for Victims and Survivors, "It Didn't End in 1998":

Examining The Impacts of Conflict Legacy across Generations", October 2021, at: <https://www.qub.ac.uk/research-centres/CentreforChildrensRights/CCRFilestore/Fileupload/1224477.en.pdf>.

<sup>191</sup> Abby Wallace, 'Integrated education in Northern Ireland is urgent – why can't our leaders see that?', *The Guardian*, 2 December 2021, at: <https://www.theguardian.com/commentisfree/2021/dec/02/integrated-education-northern-ireland-school>.

<sup>192</sup> OSCE HCNM, Ljubljana Guidelines, Guideline 44, p.54.

efforts to address this have not yet gone far enough.

183. The Advisory Committee urges the authorities to increase the share of pupils and students attending integrated schools, and seek to actively motivate parents and provide incentives for pupils and students studying in such schools, with a view to creating a fully integrated education system in Northern Ireland.

184. The Advisory Committee encourages the authorities to provide further guidance to schools implementing shared education to address their large discretionary power with the aim of improving the consistency of shared education, guaranteeing a more uniform approach to it across schools and ensuring its positive contribution to the integration of society.

#### Effective access to education – (Article 12)

185. In Northern Ireland, the Traveller Child in Education Framework, launched in 2013, contained a number of measures aimed at improving educational outcomes over a ten-year period. The Education Welfare Service works to ensure that pupils and students across the education system continue to be able to access education – including through working with parents in itinerant or semi-itinerant Traveller families to continue registering children in schools – as there is a risk the students fall off the system if not, but a new data system is being developed to automatise this tracking. The authorities have stated that the province is small enough for the service of only around ten people to be able to keep track of individual pupils, but when families may travel to Great Britain or the Republic of Ireland, it is difficult to know if they have re-enrolled in education.

186. Also in Northern Ireland, the Addressing Bullying in Schools Act 2016 commenced in September 2021 – meaning now that all schools have to record instances of bullying, its motivation and how they address it. In England, Wales and Scotland, schools must have a behaviour policy in place and are obliged to address harassment in line with the Equality Act 2010, but recording is voluntary not obligatory. The UK authorities point out however that GBP 2.8 million of funding was granted between September 2016 and March 2020 to four anti-bullying organisations to support schools to tackle bullying, including racist bullying, and a

linking project helps to connect schools and pupils with different backgrounds to get to know each other. In Scotland, the REAREP addresses racism and racist incidents—as part of its aims, as does the Race Equality Action Plan for Wales which has specific measures aiming to improve outcomes and reduce racism for Gypsy, Roma and Traveller learners.

187. According to data from the Race Disparity Audit, using data for England, “Gypsy/Roma” and Irish Travellers (the categories used by the RDA) had the worst education outcomes of all ethnic groups. In 2019/20, just 8.1% of “White Gypsy or Roma” students achieved a grade 5 (pass) or above at GCSE (age 16) level, compared to 49.9% for the rest of the population. They also experience the highest level of temporary and secondary exclusions of any ethnic group, and the highest rates of persistent absence.<sup>193</sup> It has been reported than inequalities such as this persist elsewhere.<sup>194</sup> The latter two jurisdictions – i.e., Wales and Northern Ireland – have action plans with measures targeting education (see Article 4). There is however a lack of disaggregated data pertaining to absenteeism or drop-outs, whereas data on outcomes is more readily available. For Black and ethnic minorities in England and Wales, the data collected by the authorities shows similar trends. For instance, 26.9% of “Black Caribbean” students achieved a grade 5 (pass) or above at GCSE, while 10.2% were temporarily excluded.<sup>195</sup>

188. Gypsy, Roma and Traveller representatives have highlighted these issues and contextualised the reasons for which students may no longer attend school – most prominently persistent bullying and a lack of action from schools to adequately deal with this. The Advisory Committee has heard accounts of serious and violent bullying in schools, which have led parents to take their children out of school for their own safety. Research concerning young Travellers in London has shown that bullying is the biggest reason for leaving school, and that 40% felt bullied by other pupils and 67% by teachers – and these figures are even starker for girls.<sup>196</sup> This also acts as a driver of retaliation and hence of the numbers of Gypsy, Roma and Traveller students excluded.<sup>197</sup> Racial slurs against these minorities appear to persist on school playgrounds across the country.<sup>198</sup> Interlocutors have also raised concerns about the reporting mechanism for bullying across Great

<sup>193</sup> Data based on England. For temporary exclusion, 15.28% for Gypsy or Roma pupils, and 10.12% for Irish Traveller pupils; for persistent absence: 2020 to 2021 school year, 52.6% of Gypsy or Roma pupils, and 56.7% of Irish Traveller pupils.

<sup>194</sup> See ECNI, p.60-61, also Craigavon Travellers Support Committee [submission](#) to Northern Ireland Affairs Select Committee investigation into experiences of ethnic minority and migrant people in Northern Ireland, 2021. 11.1% of Gypsy / Gypsy Roma pupils achieved five or more GCSEs at grades A\* to C. Information provided by Race Equality First based on Stats Wales., (2020). [National Level results, by subject, year and ethnic background.](#)

<sup>195</sup> Data for 2017/18 and 2016/2017 and in comparison to 42% and 5.2% for “White British”, respectively: <https://www.ethnicity-facts-figures.service.gov.uk/summaries/black-caribbean-ethnic-group#education>.

<sup>196</sup> 63% of girls and 61% of boys. Traveller Movement, [‘Barriers in education’](#).

<sup>197</sup> Friends, Families and Travellers, Shadow Report, p.21. See also: Anti-Bullying Alliance and Friends, Families and Travellers, [‘Bullied, not believed or blamed’](#), 2020, p.20.

<sup>198</sup> Anti-Bullying Alliance and Friends, 2020, p.18.

Britain being inadequate and leading schools not to report instances of racist bullying for fear of looking bad in the statistics, and that teachers and school authorities do not challenge abusive, racist language and are not aware of antigypsyism and the experiences of persons belonging to these minorities.<sup>199</sup> The same research also shows that the lack of teaching about the history and culture of the minority also contributes to the feeling that “no-one understands” them at school, and contributes to absenteeism and further marginalises them. Targeted resources to tackle antigypsyist bullying have been developed by the Anti-Bullying Alliance with UK Government funding.<sup>200</sup>

189. In relation to Northern Ireland, civil society raised concern that the Traveller Child in Education Framework has been effectively left on the shelf since it was adopted in 2013, representing a departmental failure to implement it. Furthermore, the staffing levels of the Education Welfare Service have raised concerns. The Children’s Law Centre and STEP have challenged the measures in the anti-bullying act as the monitoring template for schools to use when recording bullying contains no ethnic identifier – only an option to record the bullying as ‘racial’. They are concerned that this perpetuates under-reporting, amidst a wider lack of disaggregated data in Northern Ireland.<sup>201</sup>

190. Civil society has reported that bullying has also increased against Eastern European pupils since 2016, with one study finding that 77% of such pupils had experienced racism, bullying and xenophobia.<sup>202</sup> The NSPCC also found in 2019 that racist bullying incidents hit a three-year high.<sup>203</sup> In Wales, it has been reported that schools ignore or are ill-equipped to deal with racist bullying.<sup>204</sup>

191. According to Article 12(3), equal opportunities for access to education at all levels for persons belonging to national minorities must be promoted.<sup>205</sup> The Advisory Committee reiterates that states need to act resolutely across different but interlinked areas to ensure this right is upheld in practice: in monitoring school enrolment and attendance, addressing any difficulties encountered by itinerant or semi-itinerant groups constructively; in acting to improve the confidence of parents and students in the education system, including through effectively tackling racist bullying; in monitoring school attainment, including absenteeism and drop-out rates, literacy, completion of studies,

grades, gender disparities, access to higher education and employment.<sup>206</sup>

192. The Advisory Committee shares the concerns of its interlocutors regarding attendance rates and outcomes for minority pupils, in particular Gypsies, Roma and Travellers. It is clear that inequalities in the education system are entrenched, including shocking levels of racist bullying against this minority. Comprehensive efforts are needed to address this problem among staff and pupils, including through widely rolling out existing anti-bullying resources, and to ensure that there is adequate recording of incidents of racist bullying – including though recording ethnic identifiers and motive. Any future strategy promoting the participation of Gypsies, Roma and Travellers could include such a measure, and it is disappointing to note that the Inclusive Britain action plan does not. Tackling this issue will also help to tackle the issue of absenteeism. More generally, increased data collection on absenteeism by schools disaggregated by ethnicity, gender and geography would also be a necessary step in tackling absenteeism.

193. The Advisory Committee acknowledges the work of the Education Welfare Service in Northern Ireland – but it is concerned that it may be under-resourced for its task, and systematic data sharing across the British Isles would also help to ensure pupils are able to continue their education. The fact that the ten-year framework for Traveller children also appears to have been abandoned by the authorities is also regrettable, as it represented the result of fruitful collaboration with the Traveller minority. The systemic issue across the UK of having to re-enrol in each new school may have a disproportionate impact on itinerant Gypsies, Roma and Travellers and the Advisory Committee is of the view that positive measures to facilitate the way of life of these persons are needed to allow them to practice this way of life and continue to have effective access to education. Finally, the Advisory Committee reiterates its findings under Article 12(1), above, concerning the need to properly teach the history, cultures, traditions and current situation of minorities – notably Gypsies, Roma and Travellers, and emphasises how this will also help to foster a welcoming and inclusive school environment.

194. The Advisory Committee calls on the authorities to take priority measures to tackle racist bullying in schools, in particular against Gypsies, Roma and Travellers, including through

<sup>199</sup> Children’s Law Centre NI & STEP, Joint Submission to FCNM, p.9. Also: Anti-Bullying Alliance, 2020, p.16-18, 23.

<sup>200</sup> See Anti-Bullying Alliance tools and information here: <https://anti-bullyingalliance.org.uk/tools-information/all-about-bullying/at-risk-groups/racist-and-faith-targeted-bullying/gypsy-roma>, including a ABA online training course [here](#).

<sup>201</sup> Shadow report of CLC and STEP, p.5.

<sup>202</sup> Runnymede Trust, p.15.

<sup>203</sup> BBC News, ‘Children whitening skin to avoid racial hate crime, NSPCC finds’, 30 May 2019: <https://www.bbc.com/news/uk-48458850>.

<sup>204</sup> BBC News, ‘Racism: Schools accused of ignoring or denying problems’, 9 June 2022: <https://www.bbc.com/news/uk-wales-61731813>.

<sup>205</sup> ACFC, Thematic Commentary No.4, para.73.

<sup>206</sup> [ACFC Thematic commentary No. 1](#), Education under the Framework Convention for the Protection of National Minorities, adopted on 2 March 2006, p.22.

making recording instances of racist bullying mandatory in schools in Great Britain, adding ethnic identifiers on such recording in Northern Ireland, strengthening mechanisms and remedies in cases of racist bullying, and collecting data disaggregated by gender, geographical location and ethnicity on absenteeism. More targeted measures are needed to improve outcomes for persons belonging to minorities and positive measures are required to facilitate the itinerant way of life whilst still ensuring access to education.

195. The Advisory Committee asks the authorities to explore possibilities for sharing education data between the United Kingdom and the Republic of Ireland, in order to ensure continuity in access to education for Gypsies, Roma and Travellers across jurisdictions.

196. The Advisory Committee firmly encourages the authorities to introduce training for teachers on Gypsy, Roma and Traveller cultures, their way of life and dealing with instances of antigypsyism in schools.

#### Minority language education (Article 14)

197. In Northern Ireland, the Department of Education (DE) has the statutory duty to encourage and facilitate the development of Irish-medium education. It funds *Comhairle na Gaelscolaíochta* (CnaG) to deliver this offer. Additional grants to support the development of Irish-medium education are awarded by the Education Authority and the Council for Curriculum, Examinations and Assessments. NDNA and Irish language legislation provide further guarantees in delivering Irish-Medium education (see also Article 10). Following the passage of the Identity and Language (NI) Bill, the Northern Ireland Department of Education will come under a further duty to encourage and facilitate the use and understanding of Ulster Scots in the education system (see Article 10).

198. Cornwall Council commissions Golden Tree, a Cornish language organisation, to support over 20 out of 300 schools across Cornwall through teacher training and activities with students, to offer Cornish in primary schools. Since 2020, a basic set of resources was provided for primary schools using Cornish language. Voluntary community groups provide a network for adult language learning and exams in Cornish. The Cornish Language Board registered 90 entries for exams in 2021.<sup>207</sup>

199. The Education (Scotland) Act 2016 places a duty on local authorities to assess the need for Gaelic medium education (at pre-school and primary level), following parental request, to promote and support Gaelic medium education and a duty on the Bòrd to produce guidance on

Gaelic education. Scottish authorities state that a GBP 4 million Gaelic Capital funding with GBP 4.482 million for resource support was made available to local authorities to help deliver on those new provisions. Some schools offer the possibility to continue studying Gaelic, notably at secondary level, where it is taught as a modern language.<sup>208</sup>

200. According to CnaG, the current model used for area-based planning does not assume growth in the Irish-medium education sector, despite increased demand. It notes the lack of subject-specific teachers with high-level competence in Irish, and of educational resources – translations of textbooks being undertaken on a voluntary basis by organisations or teachers. They identified good practices to remedy these shortcomings in the Welsh and Scottish models (training of subject specific teachers to be fluent in Irish, incentives to retain teachers and students). They also highlighted that currently, pupils with special educational needs may only receive support in English.

201. Cornish representatives informed the Advisory Committee that the lack of funds to train teachers and provide educational materials means that the organisation providing classes of Cornish (at preschool level, parent and children groups and community classes) are operating on a voluntary basis, despite growing demand. Cornish is not inscribed in the National Curriculum, thus opportunities to learn it depend on the willingness of schools to offer the subject and the efforts of voluntary organisations. Scots and Ulster Scots representatives respectively mentioned similar issues. Welsh representatives, for their part, indicated satisfaction with progress and hope to continue developing the offer in Welsh education, notably for adults.

202. Gaelic representatives reported on the “Gaelic First” option, where Gaelic is the default medium offered. They observed a discrepancy between the islands, where around 60% of pupils opt-in for English-medium education, and the rest of Scotland, where Gaelic-medium schools are in high demand. They indicated that the lack of standards for Gaelic immersion schools means that it depends on the goodwill of headteachers and local authorities. The shortage of teachers continues to pose difficulties, notably at secondary level for subject-specific teachers, but the offer for educational materials in Gaelic has improved. More emphasis and support are needed to increase the offer of Gaelic Medium immersion education in areas with high percentages of persons with Gaelic as a first language. Youth representatives confirmed that obtaining qualifications in Gaelic at the end of their studies was essential to pursue University

<sup>207</sup> Contribution of Cornwall Council to the Fifth Cycle UK State Report, [2021 Addendum](#), Article 14.

<sup>208</sup> Information received from the Scottish Government, May 2022.

and a career requiring Gaelic language skills, for instance, teaching, media, or healthcare.

203. The Advisory Committee reiterates that persons belonging to national minorities, where living traditionally or in substantial numbers, should be given opportunities to be taught their language or in their language. It further recalls that the availability of qualified teachers and access to educational materials of good quality in minority language are essential preconditions for ensuring quality education for all students.<sup>209</sup> Observing the predominantly voluntary-based minority language education for Cornish, among other languages, the Advisory Committee considers that authorities should increase their efforts to remedy the lack of support for Cornish education, ensuring continuous funding to organisations developing teacher training, teaching Cornish and creating educational material in this language. It notes with regret that Gaelic-medium immersion education and Irish-medium immersion education lack coherent frameworks and specific support to further develop, notably in order to provide continuous teaching from pre-school to secondary education in these respective languages. Local authorities are also encouraged to ensure that support services for pupils with special educational needs are available in Irish. It is concerned at the shortage of qualified teachers of minority languages and in specific subjects, and further incentives for the recruitment and retainment of minority language teachers should be offered. It notes that Welsh language education is well-established, with opportunities to expand the offer of life-long learning.

204. The Advisory Committee urges the authorities to intensify their efforts to develop and increase the offer and support to Irish-medium education in Northern Ireland, including for children with special educational needs, and Gaelic-medium education in areas traditionally inhabited by persons belonging to the Gaelic-speaking minority in Scotland.

205. The Advisory Committee urges the authorities to include Cornish in the curriculum and adequately fund Cornish organisations providing minority language education, teacher training or developing quality educational materials in Cornish.

206. The Advisory Committee calls on the authorities to ensure appropriate provision of qualified teachers of minority languages and/or teachers capable of teaching other subjects in minority languages, by increasing the support for the training, recruitment and retainment of minority language teachers, notably in Irish and Scottish Gaelic.

## Participation in public life (Article 15)

207. The state report informs of efforts made to increase the diversity of the Civil Service and police through the recruitment of 20 000 police officers (see also Article 6). There are separate consultation groups on housing for example, reflecting a broadly sectoral approach to consultation in the UK. At a more general level there is an All-Party Parliamentary Group on Gypsy, Roma and Traveller issues, but as the Advisory Committee previously found, mechanisms are rather unstructured nationally.<sup>210</sup>

208. The devolved administrations all have consultation groups for their respective strategies, for instance, in Scotland BEMIS is one of several membership organisations and networks which convene groups and fora for minority representatives to share their concerns and also a means for distributing funds and information to communities,<sup>211</sup> and devolution is still seen as a crucial way for more localised minorities, but also those who live more dispersed, to have their voices heard on devolved issues. Concerning devolution, some interlocutors have highlighted the interplay between devolved and reserved powers – and how decisions taken by the UK Government impacted on the priorities and operational responses of the devolved governments. For example, a hostile immigration policy with impacts on mental health. Greater co-ordination and mutual dialogue on points such as this could ensure that concerns raised on the ground are heard in central government.

209. Minority representatives, particularly Gypsies, Roma and Travellers, expressed regret at the lack of participation of persons belonging to national minorities in public administration. Likewise, the unstructured system of consultation appeared to many minority representatives as simultaneously bureaucratically burdensome and without effect; Gypsy, Roma and Traveller representatives for instance stated that they had collected many responses to the consultation on the Police, Crime, Sentencing and Courts Act which they submitted to the Government, who counted it as one response – whereas the individual responses from others were counted separately. This is relevant as the Government, in its response, relied on the majority of views expressed supporting its action. Hence, they state that the outcome – the Act itself – did not reflect their input.

210. Cornwall Council has again raised concerns about the lack of powers devolved to it in relation to its responsibilities under the Framework Convention – including education,

<sup>209</sup> See [ACFC Thematic Commentary No.1](#), p.18 and [ACFC Thematic Commentary No.3](#), paras.60-63.

<sup>210</sup> Advisory Committee's Fourth Opinion on the United Kingdom, para.130.

<sup>211</sup> BEMIS is the national Ethnic Minorities led umbrella body supporting the development of the Ethnic Minorities Voluntary Sector in Scotland and the communities that this sector represents: <https://bemis.org.uk/>.

media and dealing with the issue of second homes. Its representatives have informed the Advisory Committee that it is negotiating with the UK Government to get an ambitious County Deal under the Government's 'Levelling-Up' agenda which would recognise and integrate implementation of the Framework Convention – including the funding and powers. At present, Cornwall Council has an officer whose responsibilities include monitoring implementation of the Framework Convention within Cornwall but not nationally. They state that without further support or the devolution of powers from the UK authorities, however, implementation remains at a standstill.

211. The Advisory Committee reiterates that the authorities should aim to ensure that persons belonging to minorities' participation has a substantial influence on decisions which are taken affecting their interests.<sup>212</sup> To achieve this in the UK, a more structured and regular dialogue with a wide array of minority representatives will be necessary – but especially with Gypsy, Roma and Traveller representatives whose representation besides through consultative mechanisms, for instance in the civil service or through parliament, is minimal. In view of the level of discrimination persons belonging to this community is exposed to, and their lack of representation, the Advisory Committee firmly considers that special weight ought to be given to the concerns expressed by persons belonging to this community in public consultations.

212. Whilst Cornwall Council's work in this field is commendable, it is clear that it is touching the limit of its powers and ability to influence matters. It is hence welcome that the authorities are negotiating with the council about these increased powers and funding, and the Advisory Committee considers it of the utmost importance that such powers as are necessary to protect and promote Cornish culture and identity are granted, and the Government could appoint a member of the Cornish National Minority Working Group.

213. The Advisory Committee calls on the authorities to establish a national consultation group for Gypsies, Roma and Travellers, with the aim of ensuring that these communities have a substantial influence on decisions taken which affect their interests, taking into account the diversity of these communities.

214. The Advisory Committee calls on the authorities to devolve the appropriate powers to Cornwall Council to ensure effective implementation of the Framework Convention at local level, and to establish a permanent consultation forum with Cornwall Council on this and other issues of importance to persons belonging to the Cornish national minority.

#### Participation in economic and social life (Article 15)

215. In 2019, the National Islands Plan<sup>213</sup> was adopted by the Scottish Government, providing objectives to improve outcomes for island communities. It contains Gaelic-specific objectives on representation, sustainable economic growth, support for arts, culture and language, education and control over land-use. In 2021, the UK and Scottish Governments signed Heads of Terms for the Islands Growth Deal,<sup>214</sup> a ten-year programme with initial investment of GBP 100 million aiming to support the sustainable economic development of Orkney, Shetland and Outer Hebrides. Investments will focus on achieving "net zero" emissions objectives, focusing on sustainable energy, health and tourism. The Advisory Committee has been informed of a pilot scheme available under "Community Land Scotland", to fund geographically based community organisations finding innovative ways to boost the use of Gaelic in the Western Isles, Highlands, and Argyll and Bute. Projects funded aim to encourage the use of Gaelic in hospitality, healthcare settings as well as supporting local cultural life.<sup>215</sup> The Crofting Commission, whose Commissioner is required to be Gaelic speaking, believes that fair regulation of crofting in the interests of the wider crofting community will help these communities to continue to use the Gaelic language.<sup>216</sup>

216. The UK Government has reached its "Vision 2020" objective to increase by 20% Black, Asian and ethnic minority workers in employment including through mentoring and apprenticeship schemes. Research shows that these groups face discriminatory attitudes, hindering access to the labour market and were more likely to experience lower wages, higher unemployment, higher rates of part-time work and relatively low levels of benefits.<sup>217</sup> Authorities acknowledge that the Covid-19 pandemic exacerbated pre-existing economic inequalities in access to the labour

<sup>212</sup> ACFC Thematic Commentary No. 2, The effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted on 27 February 2008, para. 19.

<sup>213</sup> [National Islands Plan](#) and National Island Plan Delivery Group [annual report 2021](#).

<sup>214</sup> Islands Growth Deal Heads of Terms Agreement - <https://cne-siar.gov.uk/media/16903/islands-growth-deal-heads-of-terms-english.pdf> and [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/970193/Islands\\_Growth\\_Deal\\_Heads\\_of\\_Terms\\_SIGNED\\_English\\_version\\_1.1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/970193/Islands_Growth_Deal_Heads_of_Terms_SIGNED_English_version_1.1_.pdf).

<sup>215</sup> Funds between GBP 5 000-30 000. Bòrd na Gàidhlig and Community Land Scotland: <https://www.gaidhlig.scot/en/new-partnership-between-bord-na-gaidhlig-and-community-land-scotland/>. See also: <https://www.communitylandscotland.org.uk/our-work/elementor-6016/gaelic-development/>.

<sup>216</sup> A croft is a "relatively small agricultural land holding, which is normally held in tenancy, and which may or may not have buildings or a house associated with it. Crofting has had its own specific legislation since 1886, ensuring security of tenure, fair rents and compensation for permanent improvements."

<sup>217</sup> Runnymede Trust, Submission to CERD, section on Employment.

market for people from Black, Asian and minority ethnic backgrounds, notably as they were more likely to work in sectors most affected by lockdown measures. Access to adequate housing for people from Black, Asian and minority ethnic backgrounds, especially those of a migrant background and of lower socio-economic position, is also particular issue on the private rental market, amidst a shortage of affordable and social housing.<sup>218</sup> The Race disparity Audit and other research<sup>219</sup> found that people from Black, Asian and minority ethnic backgrounds are disproportionately affected by unfit, unsafe, overcrowded housing and homelessness.

217. The European Union Settlement Scheme (EUSS) is the means for EU and EEA citizens to legally remain in the UK after Brexit. Research shows that Roma had low awareness of the scheme and faced specific barriers, among them, low digital literacy, language barriers, lack of valid identification or proof of five years' residence (due to informal work and/or unstable housing circumstances). Funding for civil society organisations to support individuals belonging to these communities in applying to the EUSS has been provided by the authorities.<sup>220</sup>

218. Gypsies and Travellers face additional challenges in accessing the labour market, *inter alia* due to low educational attainment and traditional trades being outlawed or outdated.<sup>221</sup> According to the authorities, 31.2% of persons belonging to the Gypsy and Traveller minorities have "never worked" or are "long-term unemployed". Of Gypsy or Traveller women, 63% are economically inactive (43% of men), the most common reason being "looking after the home or family" (31%). Gypsies and Travellers are more likely to occupy 'elementary' employment (farm workers, cleaners etc) or be 'skilled trade workers' (farmers, electrical and building trades). Gypsy and Traveller youth also face higher unemployment than any ethnic group (14% of 16-24 years old), while having the lowest proportion of students (30%).<sup>222</sup> Additionally, authorities acknowledge the additional barriers they face in accessing benefits as a result of the Universal Credit reform, amongst others.<sup>223</sup> In Scotland, an agency receives funding for a training project empowering women to become community workers within Gypsy/Traveller communities.<sup>224</sup>

219. The Advisory Committee visited a croft in Cross, Isle of Lewis. Gaelic speakers highlighted

the importance this traditional small-scale, sustainable agricultural model held for them. Historically, crofts have provided a basis for settlement and township structure, at the heart of a culture of community and solidarity and a cultural heritage for Gaelic in Highlands and Islands. According to the Crofting Commission, crofting is on the increase, and the number of crofts being cultivated or put to purposeful use is increasing, and the number of younger people taking it up is also encouraging. More support is needed to train and develop crofting among youth. Revitalising Gaelic vernacular communities requires also a holistic approach which provides socio-economic opportunities, such as increasing support for crofting, sustainable tourism, investment in infrastructure to connect (whether digitally or by transport) to the rest of Scotland, education, health and employment on the islands.

220. Interlocutors from Black, Asian and other minority ethnic communities, notably in Northern Ireland, confirmed trends identified in research on discriminatory practices in the labour market, loss of employment or increasing difficulties as a result of the pandemic, exposing persons belonging to minorities to destitution. They emphasise the need for specific programmes to empower community members through training, resilience programmes and increased consultation on specific policies, as well as legal aid and strategies to combat racism at work. Equally, empowerment programmes to facilitate access to services and support, notably healthcare, for survivors of intra-familial violence, in languages spoken by persons belonging to ethnic minorities would also be welcome.

221. Roma representatives pointed out the negative impact of the EUSS on their participation in socio-economic life, as it created uncertainty and fear over their ability to continue living and working in the UK, resulting in obstacles in accessing basic services such as healthcare or employment. The Advisory Committee has heard that Roma struggle with the cost of rent, finding a guarantor, and overcrowding in small houses – which is not culturally appropriate as they prefer to live together in families.<sup>225</sup>

222. Owing to the cost-of-living crisis in a post-pandemic context, Gypsy and Traveller representatives alerted the Advisory Committee to increasing difficulties using fuel for petrol- or

<sup>218</sup> See for example, Shelter, 'Social Housing Deficit'.

<sup>219</sup> Cabinet Office, *Race Disparity Audit*, 2018, para.6.7. Runnymede Trust, p.46. See also Butler, P., *Guardian*, 2021.

<sup>220</sup> See NIHR, shadow report, para.4.20 onwards; Roma Support Group in Friends, Families and Travellers submission to the ACFC, March 2022.

<sup>221</sup> The Traveller Movement, Report to the UN Special Rapporteur for Poverty and Human Rights, 2018, accessed 13/06/2022, available [here](#).

<sup>222</sup> Ethnicity fact and figures, Gypsy and Travellers, available here: <https://www.ethnicity-facts-figures.service.gov.uk/summaries/gypsy-roma-irish-traveller#economic-activity-and-employment-data>.

<sup>223</sup> Research briefing, House of Commons Library, Gypsies and Travellers, 2019, accessed 13/06/2022, available [here](#).

<sup>224</sup> MECOPP, Gypsy/Traveller Carers Project, at: <https://www.mecopp.org.uk/gypsytraveller-carers-project> and Women's Voices project, at: <https://www.mecopp.org.uk/womens-voices-project>.

<sup>225</sup> Research led by Roma Alliance Derby (RAD), December 2021.

diesel-powered electricity generators (particularly those living in unauthorised settlements). Delays in payment of the benefits for elderly care and heat allowances, sometimes withdrawn without prior notice posed additional challenges. In Scotland, fear of racist behaviour in work environments and difficulties in obtaining scrap metal licenses were quoted as additional barriers to Gypsies' and Travellers' access to the labour market.

223. The Advisory Committee reiterates that persons belonging to national minorities living in rural, isolated areas, at distance from political and economic centres of activity can be confronted with more difficult socio-economic situations than the majority population.<sup>226</sup> As such, it welcomes the long-term National Islands Plan and increased funding offered by the authorities to address specific economic and infrastructural challenges, as well as outcomes focusing on Gaelic-speaking minorities' cultural and educational rights. The Advisory Committee underlines that crofting is of high importance for the protection of the culture, identity and traditional way of life in Gaelic communities. Thus, the adoption, in close consultation with persons belonging to the minorities concerned, of an implementation plan with clear targets, indicators and objectives, develop and raise awareness on crofting, including amongst the youth, could be foreseen. Such a plan could also be part of a broader programme promoting the socio-economic development of Gaelic "vernacular" language communities, which should be designed, adopted and implemented with the effective participation of representatives of said communities (see also Article 5).

224. The Advisory Committee reiterates that effective participation, in line with Article 15 of the Framework Convention, requires that states parties promote participation of persons belonging to national minorities in economic and social life and ensure benefits and positive outcomes in the social and economic spheres are equally shared.<sup>227</sup> It notes with satisfaction that projects exist to train persons, notably young women, from Gypsy and Traveller communities to become community workers, facilitating access to services. It observed the positive impact such initiatives had and encourages authorities to further develop them in close co-operation with persons belonging to minorities. It considers that long-term, comprehensive plans and programmes to promote access to employment for people from Black, Asian and minority ethnic backgrounds, including Gypsies, Roma and Travellers, empowering community members, are needed to avoid more vulnerable persons of these communities falling into

destitution. The Advisory Committee is concerned that little is being done to improve the situation for people from Black, Asian and minority ethnic backgrounds and Roma in terms of access to adequate housing, demonstrated by persistent inequalities in housing affordability. Authorities should address disparities in access to adequate housing, improve access, in particular by improved access to subsidised housing, for persons belonging to national minorities.

225. The Advisory Committee calls on the Scottish authorities to promote further, through a dedicated long-term plan, the socio-economic development of islands, remote or rural areas inhabited by Gaelic-speaking communities, with the direct participation of minority representatives from those communities.

226. The Advisory Committee strongly encourages the authorities to collect disaggregated data on employment of Gypsies and Travellers, and drawing from a successful pilot project, to adopt a programme with clear targets, indicators and outcomes promoting access to employment, for those communities, including women and youth. Authorities should ensure consultation and effective participation of Gypsies and Travellers in the design, implementation and monitoring of such programmes.

227. The Advisory Committee firmly encourages the authorities to increase support to people from Black, Asian and minority ethnic backgrounds, to ensure that long-term strategies are adopted to combat poverty and discrimination, promote access to employment and adequate housing and mitigate the negative impact of Covid-19.

#### Access to housing – Second homes (Article 15)

228. The UK Government has brought forward a Bill which in part aims to give councils the power to address the issue of long-term empty or second-homes,<sup>228</sup> which is an issue of concern for persons belonging to national minorities living in touristic areas of the UK – most notably Cornwall, but also Wales, the highlands and islands of Scotland, and parts of Northern Ireland.<sup>229</sup> Second-home ownership takes properties off the long-term rental market and instead they are used for holiday rentals. Cornwall Council states that, unlike the devolved nations, it does not have the policy levers to effectively address this issue – for instance, increased council tax on second homes in other parts of the UK. Cornish representatives have stated that this situation prevents them from meaningfully promoting and protecting their culture, since Cornish people are

<sup>226</sup> ACFC Thematic Commentary No. 2, para.42.

<sup>227</sup> ACFC Thematic Commentary No. 2, para.26.

<sup>228</sup> DLUHC, Levelling Up and Regeneration Bill, 9 June 2022, <https://bills.parliament.uk/bills/3155>.

<sup>229</sup> See shadow reports from Azook Community Interest Company, p.6.

being effectively forced out of the area or being declared homeless – the number of people in emergency housing climbing by 50% in 2021-22 – destroying the communities which make up the heart of any national minority. In response, the UK Government states that its aim is to improve the supply of housing by building more in these areas of concern, and that councils have some existing powers to address this.<sup>230</sup>

229. The Advisory Committee considers that communities of language users are an irreplaceable condition for the protection and promotion of minority cultures and identities. Furthermore, it reiterates that “equal opportunities should not be limited to giving equal access to markets and services. Effective participation [in social and economic life] also requires that state parties promote participation of persons belonging to national minorities [in this sphere]”.<sup>231</sup> In light of these elements, and in view of the territoriality of the Cornish national minority, as well as others, the Advisory Committee has concerns about the number of second homes in areas such as Cornwall, and considers that this will negatively impact the viability of Cornish language communities – preventing persons belonging to the Cornish national minority from effectively protecting and promoting their culture (see Article 5). At the same time it is concerned at the level of homelessness facing persons belonging to the Cornish minority. Whilst the Advisory Committee acknowledges the structural factors at work in this example, and the complexity of factors influencing the housing market, it considers that for Cornwall, building its way out of the problem may not solve the urgent issues facing persons belonging to the Cornish minority at present. Central Government and Cornwall Council should work together to find the appropriate tools to address this problem, and in line with the principles outlined above, promote the participation of persons belonging to the Cornish national minority in the housing market.

230. The Advisory Committee calls on the authorities to work with Cornwall Council to address the housing crisis affecting persons belonging to the Cornish national minority, and to collaborate with devolved administrations to tackle this problem in areas of concern.

### Access to healthcare (Article 15)

231. The state report informs that a review of the pandemic outcomes by Public Health England (PHE) in 2020 showed that, among

confirmed Covid-19 cases, after accounting for the effect of sex, age, deprivation and region, people of Bangladeshi ethnicity had around twice the risk of death when compared to people of “White British” ethnicity. People of Chinese, Indian, Pakistani, Other Asian, Caribbean and Other Black ethnicity had between 10 and 50% higher risk of death when compared to “White British” exacerbating existing inequalities.<sup>232</sup> The authorities subsequently outlined a set of measures to tackle some of these inequalities, including a mandate for ethnicity to be recorded as part of the death certification process, and the GBP 25m Community Champions programme to enhance existing communication strategies in the most at-risk places, and fund work with grassroots advocates from impacted communities. The Community Champions project ran through 2021 and the authorities state that they continue to implement strategies to tackle inequalities through the lessons learnt in the response to the pandemic.

232. Evidence also suggests that persons belonging to ethnic minorities were less likely to have been triple vaccinated by the end of July 2022 than the White British group,<sup>233</sup> and the authorities engaged with communities to address people’s concerns about the vaccine, including through targeted communication in minority languages.<sup>234</sup> Vaccines were also offered in community settings – places familiar to people who may have been reluctant to get the vaccine. Additionally, the self-isolation guidance was produced in many minority languages from the beginning of lockdown measures in March 2020.<sup>235</sup> The Welsh Government also produced resources in Welsh. The Scottish Government also allocated specific resources to community organisations to boost vaccine uptake.

233. Interlocutors have also raised the health situation of persons belonging to Gypsy, Roma and Traveller communities as concerning. In Northern Ireland, the All-Ireland Traveller Health Study 2010 remains the only reference data for Traveller health there and its concerning findings – for example of a much shorter life expectancy for Travellers – have not started to be addressed. In Great Britain, no such comprehensive data has been collected, with the Race Disparity Audit’s data presenting a superficial picture focused on experiences of GP surgeries; but anecdotal evidence points to high rates of suicide among Gypsy and Traveller men in particular, as well as higher rates of chronic illnesses.<sup>236</sup> However, the

<sup>230</sup> See: <https://www.bbc.com/news/uk-england-cornwall-61308076>.

<sup>231</sup> ACFC Thematic Commentary No.2, para.27.

<sup>232</sup> Public Health England, *Beyond the Data: Understanding the impact of COVID-19 on BAME groups*, 2020. See also ONS, *Updating ethnic contrasts in deaths involving the coronavirus (Covid-19) England*, 2022.

<sup>233</sup> 37% of the Black Caribbean population had not been vaccinated by July 2022 compared to 7.9% of the White British population. CHIME – [Covid-19 Health Inequalities \(phe.gov.uk\)](https://www.phe.gov.uk/covid-19-health-inequalities).

<sup>234</sup> See leaflet on vaccination produced in 29 languages: <https://www.gov.uk/government/publications/covid-19-vaccination-guide-for-older-adults>.

<sup>235</sup> <https://www.gov.uk/government/publications/covid-19-stay-at-home-guidance>.

<sup>236</sup> Traveller Movement, *'Mental Health and Suicide among GRT Communities'*, 2019.

lack of ethnic monitoring of deaths means that data on this is outdated. Representatives of the minority also stated that it was not possible to self-identify as Roma in diversity monitoring in NHS England. The Scottish Government has highlighted the general poor health of Gypsy/Travellers in Scotland. More elderly Gypsy/Traveller women are three times more likely to report “poor general health” than other elderly women whilst almost half of Gypsy/Traveller men reported higher levels of poor general health than that reported by other ethnic groups. The youngest age groups show higher rates of poor health than any other ethnic group. Those aged 16-34, 35- 49 and 50-64 were more than twice as likely to have a “health problem or disability” compared to all men in the population in these age bands.<sup>237</sup>

234. The Advisory Committee reiterates that persons belonging to national minorities face particular difficulties in their access to healthcare, impacting negatively their participation in socio-economic life.<sup>238</sup> It stresses that positive measures need to be taken to ensure their equal participation in this respect and in conformity with Article 15 of the Framework Convention. The Advisory Committee therefore commends the authorities’ efforts to disseminate information about the pandemic in minority and migrant languages as this is a vital public health measure – both relating to vaccination and sanitary measures to be taken. It commends equally the rapid data gathering by PHE which allowed the UK authorities to respond effectively to the inequalities identified in terms of mortality through targeted vaccination and awareness-raising campaigns. Innovative methods such as vaccine hubs in community centres have clearly shown their worth in ensuring effective access to healthcare for persons belonging to minorities.

235. The health situation as reported by persons belonging to the Gypsy, Roma and Traveller minorities is alarming. It is regrettable that little has been done to gather comprehensive and reliable data on the health situation of these communities, and that it is impossible to self-identify as Roma in the NHS in England. This should be remedied and harmonised with the categories of the census. However, a more in-depth study as is available in Northern Ireland would be a welcome step to addressing health inequalities – if an adequately resourced and properly elaborated health strategy is subsequently adopted. Finally, the Advisory Committee expects that the inclusion of ethnicity on death certificates post-pandemic will enable the authorities to better monitor the health

outcomes and situation of Gypsies, Roma and Travellers too – with full respect for the principle of free self-identification.

236. The Advisory Committee calls on the authorities to ensure effective access to healthcare and a healthy standard of living for persons belonging to national minorities, in particular Gypsies, Roma and Travellers. Further data gathering in partnership with them should be carried out, with a view to designing long term gender-sensitive measures to address health inequalities. The Advisory Committee calls on the authorities in Northern Ireland to design adequate measures in response to the All-Ireland Traveller Health Survey.

#### Bi- and multilateral co-operation (Article 17 & 18)

237. The authorities report that the work of the British Irish Council (BIC) contributes to sharing best practices for minority language protection across the British Isles. The Advisory Committee takes note of the Government’s position that Cornwall Council cannot be formally represented on the BIC because it is not a devolved nation or Crown Dependency. Cornwall Council also informed the Advisory Committee that it had organised the first national minority summit in the UK, including representatives from across the British Isles, and continues cooperation on minority language issues, albeit with fewer human resources, with Finistère department in Brittany.<sup>239</sup> The Scottish Government has informed the Advisory Committee of its bursary scheme established with the Office of Gaelic Affairs in Nova Scotia, Canada to foster links between the Scottish Gaelic-speaking community there and in Scotland.<sup>240</sup>

238. No information on co-operation between Northern Ireland and the Republic of Ireland was provided. The Advisory Committee notes however that co-operation continued on the Irish language via *Foras na Gaelige*, including on textbooks. Ulster Scots representatives have also pointed out the possibilities for greater collaboration across the island of Ireland in the North-South Ministerial Council and BIC, as well as across the Ulster Scots diaspora.<sup>241</sup>

239. Cornwall Council again regretted that the UK Government represents the Council on the BIC, and the Committee of Experts on the Language Charter has also echoed this view, calling for the UK Government to take a flexible approach to this issue.<sup>242</sup> Irish language organisations indicated that the UK and Northern Ireland authorities may treat cross-border cooperation with the Republic of Ireland as an

<sup>237</sup> Information received from the Scottish Government, August 2022.

<sup>238</sup> See [ACFC Thematic Commentary No. 2](#), p.21.

<sup>239</sup> Conseil départemental du Finistère, Coopération Finistère-Cornwall <https://www.finistere.fr/A-votre-service/Economie-International/Europe-et-international/Cooperation-Finistere-Cornwall>.

<sup>240</sup> Comhairle na Gàidhlig, the Gaelic Council of Nova Scotia: <https://www.gaelic.ca/>.

<sup>241</sup> Report of the Expert Advisory Panel, p.21.

<sup>242</sup> Committee of Experts, Evaluation of Recommendations for Immediate Action, para.19.

excuse for not investing further in Irish language resources themselves.

240. The Advisory Committee considers that, irrespective of the debate as to whether Cornwall Council can be a formal member of the BIC, further efforts are needed to ensure it is able to fully benefit from the exchanges at this forum. It commends Cornwall Council's efforts in organising the summit and further exchanging good practices.

241. The Advisory Committee asks the authorities, in a spirit of good neighbourliness, friendly relations and cooperation between states, to continue promoting cross-border cooperation, including in the British Irish Council, and to take a flexible approach with regard to the participation of the Cornish local authorities in this body. The authorities should also continue cooperation on the promotion of the Irish language, including across media and education, between Northern Ireland and the Republic of Ireland.

The Advisory Committee on the Framework Convention for the Protection of National Minorities is an independent body that assists the Committee of Ministers of the Council of Europe in evaluating the adequacy of the measures taken by the Parties to the Framework Convention to give effect to the principles set out therein.

The Framework Convention for the Protection of National Minorities, adopted by the Committee of Ministers of the Council of Europe on 10 November 1994 and entered into force on 1 February 1998, sets out principles to be respected as well as goals to be achieved by the states, in order to ensure the protection of national minorities.

This opinion contains the evaluation of the Advisory Committee following its 5<sup>th</sup> country visit to the United Kingdom.

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